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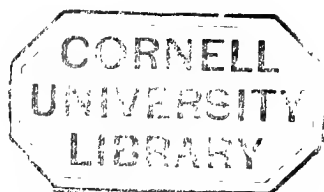
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By J. BUCHANAN HENRY.

PREFACE.

THE present volume contains all of President Buchanan's annual and special messages to Congress, except those which merely notified that body that he had approved various bills, which thereby became laws. It has been thought their publication in this form would make a convenient and useful book for consultation and reference.

INAUGURAL ADDRESS.

Invocation of the Divine assistance.—Prompt submission to the will of the majority as expressed in the election an admirable spectacle.—Congress has declared that Kansas shall be admitted to the Union, with or without slavery, as its constitution may prescribe at the time of admission, upon this principle of popular sovereignty.—In the States, under our Constitution, slavery is beyond the reach of any human power except that of the States themselves in which it exists.—The material value of our Union is incalculable.—The duty of preserving the Government from the taint or suspicion of corruption.—We are embarrassed by too large a surplus in the Treasury.—No more revenue ought to be collected from the people than necessary for a wise, economical, and efficient administration of the Government.—Our noble inheritance in the public lands should be reserved for actual settlers at moderate prices, for homes for our children and children's children.—The grant of powers in the Constitution should be strictly construed.—All the great and useful powers necessary both for peace or war have been granted expressly or by clear implication.—Under the war-making power Congress can authorize the building of a military road to our Pacific States to protect them.—Our diplomacy should be direct and frank, neither seeking to obtain more nor accepting less than is our due.—We ought to cultivate peace, commerce, and friendship with all nations in a spirit of Christian benevolence.—We should avoid entangling alliances, do justice to all, and exact it for ourselves in return.

Fellow-citizens :

I appear before you this day to take the solemn oath "that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

In entering upon this great office, I most humbly invoke the God of our fathers for wisdom and firmness to execute its high and responsible duties in such a manner as to restore harmony and ancient friendship among the people of the several States, and to preserve our free institutions throughout many generations. Convinced that I owe my election to the inherent love for the Constitution and the Union which still ani-

mates the hearts of the American people, let me earnestly ask their powerful support in sustaining all just measures calculated to perpetuate these, the richest political blessings which Heaven has ever bestowed upon any nation. Having determined not to become a candidate for re-election, I shall have no motive to influence my conduct in administering the government except the desire ably and faithfully to serve my country, and to live in the grateful memory of my countrymen.

We have recently passed through a presidential contest in which the passions of our fellow-citizens were excited to the highest degree by questions of deep and vital importance ; but when the people proclaimed their will, the tempest at once subsided, and all was calm.

The voice of the majority, speaking in the manner prescribed by the Constitution, was heard, and instant submission followed. Our own country could alone have exhibited so grand and striking a spectacle of the capacity of man for self-government.

What a happy conception, then, was it for Congress to apply this simple rule—that the will of the majority shall govern—to the settlement of the question of domestic slavery in the Territories ! Congress is neither “to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States.” As a natural consequence, Congress has also prescribed that, when the Territory of Kansas shall be admitted as a State, it “shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission.”

A difference of opinion has arisen in regard to the point of time when the people of a Territory shall decide this question for themselves.

This is, happily, a matter of but little practical importance. Besides, it is a judicial question, which legitimately belongs to the Supreme Court of the United States, before whom it is now pending, and will, it is understood, be speedily and finally settled. To their decision, in common with all good citizens,

I shall cheerfully submit, whatever this may be, though it has ever been my individual opinion that, under the Nebraska-Kansas act, the appropriate period will be when the number of actual residents in the Territory shall justify the formation of a constitution with a view to its admission as a State into the Union. But be this as it may, it is the imperative and indispensable duty of the government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved. That being accomplished, nothing can be fairer than to leave the people of a Territory free from all foreign interference, to decide their own destiny for themselves, subject only to the Constitution of the United States.

The whole territorial question being thus settled upon the principle of popular sovereignty—a principle as ancient as free government itself—everything of a practical nature has been decided. No other question remains for adjustment; because all agree that, under the Constitution, slavery in the States is beyond the reach of any human power, except that of the respective States themselves wherein it exists. May we not, then, hope that the long agitation on this subject is approaching its end, and that the geographical parties to which it has given birth, so much dreaded by the Father of his Country, will speedily become extinct? Most happy will it be for the country when the public mind shall be diverted from this question to others of more pressing and practical importance. Throughout the whole progress of this agitation, which has scarcely known any intermission for more than twenty years, whilst it has been productive of no positive good to any human being, it has been the prolific source of great evils to the master, the slave, and to the whole country. It has alienated and estranged the people of the sister States from each other, and has even seriously endangered the very existence of the Union. Nor has the danger yet entirely ceased. Under our system there is a remedy for all mere political evils in the sound sense and sober judgment of the people. Time is a great corrective. Political subjects which but a few years ago excited and exasperated the public mind have passed away

and are now nearly forgotten. But this question of domestic slavery is of far graver importance than any mere political question, because, should the agitation continue, it may eventually endanger the personal safety of a large portion of our countrymen where the institution exists. In that event, no form of government, however admirable in itself, and however productive of material benefits, can compensate for the loss of peace and domestic security around the family altar. Let every Union-loving man, therefore, exert his best influence to suppress this agitation, which, since the recent legislation of Congress, is without any legitimate object.

It is an evil omen of the times that men have undertaken to calculate the mere material value of the Union. Reasoned estimates have been presented of the pecuniary profits and local advantages which would result to different States and sections from its dissolution, and of the comparative injuries which such an event would inflict on other States and sections. Even descending to this low and narrow view of the mighty question, all such calculations are at fault. The bare reference to a single consideration will be conclusive on this point. We at present enjoy a free trade throughout our extensive and expanding country, such as the world has never witnessed. This trade is conducted on railroads and canals—on noble rivers and arms of the sea—which bind together the north and the south, the east and the west of our confederacy. Annihilate this trade, arrest its free progress by the geographical lines of jealous and hostile States, and you destroy the prosperity and onward march of the whole and every part, and involve all in one common ruin. But such considerations, important as they are in themselves, sink into insignificance when we reflect on the terrific evils which would result from disunion to every portion of the confederacy—to the north not more than to the south, to the east not more than to the west. These I shall not attempt to portray; because I feel an humble confidence that the kind Providence which inspired our fathers with wisdom to frame the most perfect form of Government and Union ever devised by man will not suffer it to perish until it shall have been peacefully instrumental, by its

example, in the extension of civil and religious liberty throughout the world.

Next in importance to the maintenance of the Constitution and the Union is the duty of preserving the government free from the taint, or even the suspicion, of corruption. Public virtue is the vital spirit of republics ; and history shows that when this has decayed, and the love of money has usurped its place, although the forms of free government may remain for a season, the substance has departed forever.

Our present financial condition is without a parallel in history. No nation has ever before been embarrassed from too large a surplus in its treasury. This almost necessarily gives birth to extravagant legislation. It produces wild schemes of expenditure, and begets a race of speculators and jobbers, whose ingenuity is exerted in contriving and promoting expedients to obtain public money. The purity of official agents, whether rightfully or wrongfully, is suspected, and the character of the government suffers in the estimation of the people. This is in itself a very great evil.

The natural mode of relief from this embarrassment is to appropriate the surplus in the treasury to great national objects, for which a clear warrant can be found in the Constitution. Among these I might mention the extinguishment of the public debt, a reasonable increase of the navy, which is at present inadequate to the protection of our vast tonnage afloat, now greater than that of any other nation, as well as to the defence of our extended seacoast.

It is beyond all question the true principle, that no more revenue ought to be collected from the people than the amount necessary to defray the expenses of a wise, economical, and efficient administration of the government. To reach this point, it was necessary to resort to a modification of the tariff ; and this has, I trust, been accomplished in such a manner as to do as little injury as may have been practicable to our domestic manufactures, especially those necessary for the defence of the country. Any discrimination against a particular branch, for the purpose of benefiting favored corporations, individuals, or interests, would have been unjust to the rest of the community, and inconsistent with that spirit of fairness

and equality which ought to govern in the adjustment of a revenue tariff.

But the squandering of the public money sinks into comparative insignificance as a temptation to corruption when compared with the squandering of the public lands.

No nation in the tide of time has ever been blessed with so rich and noble an inheritance as we enjoy in the public lands. In administering this important trust, whilst it may be wise to grant portions of them for the improvement of the remainder, yet we should never forget that it is our cardinal policy to reserve these lands, as much as may be, for actual settlers, and this at moderate prices. We shall thus not only best promote the prosperity of the new States and Territories by furnishing them a hardy and independent race of honest and industrious citizens, but shall secure homes for our children and our children's children, as well as for those exiles from foreign shores who may seek in this country to improve their condition, and to enjoy the blessings of civil and religious liberty. Such emigrants have done much to promote the growth and prosperity of the country. They have proved faithful both in peace and in war. After becoming citizens, they are entitled, under the Constitution and laws, to be placed on a perfect equality with native-born citizens, and in this character they should ever be kindly recognized.

1 The Federal Constitution is a grant from the States to Congress of certain specific powers; and the question whether this grant should be liberally or strictly construed, has, more or less, divided political parties from the beginning. Without entering into the argument, I desire to state, at the commencement of my administration, that long experience and observation have convinced me that a strict construction of the powers of the Government is the only true, as well as the only safe, theory of the Constitution.1 Whenever, in our past history, doubtful powers have been exercised by Congress, these have never failed to produce injurious and unhappy consequences. Many such instances might be adduced, if this were the proper occasion. Neither is it necessary for the public service to strain the language of the Constitution; because all the great and useful powers required for a success-

ful administration of the Government, both in peace and in war, have been granted, either in express terms or by the plainest implication.

Whilst deeply convinced of these truths, I yet consider it clear that, under the war-making power, Congress may appropriate money towards the construction of a military road, when this is absolutely necessary for the defence of any State or Territory of the Union against foreign invasion. Under the Constitution, Congress has power "to declare war," "to raise and support armies," "to provide and maintain a navy," and to call forth the militia to "repel invasions." Thus endowed, in an ample manner, with the war-making power, the corresponding duty is required that "the United States shall protect each of them [the States] against invasion." Now, how is it possible to afford this protection to California and our Pacific possessions, except by means of a military road through the Territories of the United States, over which men and munitions of war may be speedily transported from the Atlantic States to meet and to repel the invader? In the event of a war with a naval power much stronger than our own, we should then have no other available access to the Pacific coast, because such a power would instantly close the route across the isthmus of Central America. It is impossible to conceive that, whilst the Constitution has expressly required Congress to defend all the States, it should yet deny to them, by any fair construction, the only possible means by which one of these States can be defended. Besides, the Government, ever since its origin, has been in the constant practice of constructing military roads. It might also be wise to consider whether the love for the Union which now animates our fellow-citizens on the Pacific coast may not be impaired by our neglect or refusal to provide for them, in their remote and isolated condition, the only means by which the power of the States, on this side of the Rocky Mountains, can reach them in sufficient time to "protect" them "against invasion." I forbear for the present from expressing an opinion as to the wisest and most economical mode in which the Government can lend its aid in accomplishing this great and necessary work. I believe that many of the difficulties in the way, which now

appear formidable, will, in a great degree, vanish as soon as the nearest and best route shall have been satisfactorily ascertained.

It may be proper that, on this occasion, I should make some brief remarks in regard to our rights and duties as a member of the great family of nations. In our intercourse with them there are some plain principles, approved by our own experience, from which we should never depart. We ought to cultivate peace, commerce, and friendship with all nations; and this not merely as the best means of promoting our own material interests, but in a spirit of Christian benevolence towards our fellow-men, wherever their lot may be cast. Our diplomacy should be direct and frank, neither seeking to obtain more nor accepting less than is our due. We ought to cherish a sacred regard for the independence of all nations, and never attempt to interfere in the domestic concerns of any, unless this shall be imperatively required by the great laws of self-preservation. To avoid entangling alliances has been a maxim of our policy ever since the days of Washington, and its wisdom no one will attempt to dispute. In short, we ought to do justice, in a kindly spirit, to all nations, and require justice from them in return.

It is our glory that, whilst other nations have extended their dominions by the sword, we have never acquired any territory except by fair purchase, or, as in the case of Texas, by the voluntary determination of a brave, kindred, and independent people to blend their destinies with our own. Even our acquisitions from Mexico form no exception. Unwilling to take advantage of the fortune of war against a sister republic, we purchased these possessions, under the treaty of peace, for a sum which was considered at the time a fair equivalent. Our past history forbids that we shall in the future acquire territory, unless this be sanctioned by the laws of justice and honor. Acting on this principle, no nation will have a right to interfere or to complain if, in the progress of events, we shall still further extend our possessions. Hitherto, in all our acquisitions, the people, under the protection of the American flag, have enjoyed civil and religious liberty, as well as equal and just laws, and have been contented, prosperous, and happy.

Their trade with the rest of the world has rapidly increased, and thus every commercial nation has shared largely in their successful progress.

I shall now proceed to take the oath prescribed by the Constitution, whilst humbly invoking the blessing of Divine Providence on this great people.

ANNUAL MESSAGE TO THE TWO HOUSES OF
CONGRESS AT THE COMMENCEMENT OF
THE FIRST SESSION OF THE THIR-
TY-FIFTH CONGRESS.

Severe financial revulsion of 1857 proceeding from a vicious system of paper currency and bank credits.—The fourteen hundred State banks held less than one dollar in seven of gold and silver in proportion to their circulation and deposits.—Ruinous expansions and contractions of loans and credits.—The several States must supply the remedy by legislation.—A uniform bankrupt law by Congress, and remedies the States may adopt advantageously, suggested.—Foreign relations satisfactory.—Great Britain.—Clayton-Bulwer treaty.—Conflicting constructions as to the coast of Central America.—American view.—Negotiations in regard to same between the two Governments.—France.—Russia.—Spain, our relations with her not as peaceful as could be desired.—Firing of the Spanish frigate *Ferrolana* on the American steamer *El Dorado*.—Treaty with Persia.—Our relations with China—a new minister to same appointed, with special instructions as to revision of treaty.—Brazil.—New Granada.—The Isthmus of Panama.—Authority asked to protect the transit routes.—Filibustering expeditions must be prevented, Congress urged to legislate to that end.—Paraguay.—Firing on the United States steamer *Water Witch*.—Redress demanded.—Affairs of Kansas detailed.—The question of slavery to be submitted to the decision of the bona-fide people of Kansas.—Utah affairs.—Arizona.—The building of a railway to the Pacific both constitutional and necessary for the defence of our Pacific States.—Construction of ten small war vessels recommended.—Reports of the several Executive Departments.—Policy as to the public land.—Indian affairs.—Expenses of the Government.—The President declares his intention to sign no bill at the end of the Session of Congress unless he is given time to examine it properly.—District of Columbia commended to the favorable consideration of Congress.

Fellow-citizens of the Senate and House of Representatives :

In obedience to the command of the Constitution, it has now become my duty “to give to Congress information of the state of the Union, and recommend to their consideration such measures” as I judge to be “necessary and expedient.”

But first, and above all, our thanks are due to Almighty God for the numerous benefits which He has bestowed upon this people ; and our united prayers ought to ascend to Him that He would continue to bless our great republic in time to come as He has blessed it in time past. Since the adjournment of the last Congress our constituents have enjoyed an unusual degree of health. The earth has yielded her fruits abundantly, and has bountifully rewarded the toil of the husbandman. Our great staples have commanded high prices, and, up till within a brief period, our manufacturing, mineral, and mechanical occupations have largely partaken of the general prosperity. We have possessed all the elements of material wealth in rich abundance, and yet, notwithstanding all these advantages, our country, in its monetary interests, is at the present moment in a deplorable condition. In the midst of unsurpassed plenty in all the productions of agriculture, and in all the elements of national wealth, we find our manufactures suspended, our public works retarded, our private enterprises of different kinds abandoned, and thousands of useful laborers thrown out of employment and reduced to want. The revenue of the government, which is chiefly derived from duties on imports from abroad, has been greatly reduced, whilst the appropriations made by Congress at its last session for the current fiscal year are very large in amount.

Under these circumstances a loan may be required before the close of your present session ; but this, although deeply to be regretted, would prove to be only a slight misfortune when compared with the suffering and distress prevailing among the people. With this the government cannot fail deeply to sympathize, though it may be without the power to extend relief.

It is our duty to inquire what has produced such unfortunate results, and whether their recurrence can be prevented ? In all former revulsions the blame might have been fairly attributed to a variety of co-operating causes ; but not so upon the present occasion. It is apparent that our existing misfortunes have proceeded solely from our extravagant and vicious system of paper currency and bank credits, exciting the people to wild speculations and gambling in stocks. These revul-

sions must continue to recur at successive intervals so long as the amount of the paper currency and bank loans and discounts of the country shall be left to the discretion of fourteen hundred irresponsible banking institutions, which, from the very law of their nature, will consult the interest of their stockholders rather than the public welfare.

The framers of the Constitution, when they gave to Congress the power "to coin money and to regulate the value thereof," and prohibited the States from coining money, emitting bills of credit, or making anything but gold and silver coin a tender in payment of debts, supposed they had protected the people against the evils of an excessive and irredeemable paper currency. They are not responsible for the existing anomaly that a government endowed with the sovereign attribute of coining money and regulating the value thereof should have no power to prevent others from driving this coin out of the country and filling up the channels of circulation with paper which does not represent gold and silver.

It is one of the highest and most responsible duties of government to insure to the people a sound circulating medium, the amount of which ought to be adapted with the utmost possible wisdom and skill to the wants of internal trade and foreign exchanges. If this be either greatly above or greatly below the proper standard, the marketable value of every man's property is increased or diminished in the same proportion, and injustice to individuals as well as incalculable evils to the community are the consequence.

Unfortunately, under the construction of the Federal Constitution, which has now prevailed too long to be changed, this important and delicate duty has been dissevered from the coining power, and virtually transferred to more than fourteen hundred State banks, acting independently of each other, and regulating their paper issues almost exclusively by a regard to the present interest of their stockholders. Exercising the sovereign power of providing a paper currency instead of coin for the country, the first duty which these banks owe to the public is to keep in their vaults a sufficient amount of gold and silver to insure the convertibility of their notes into coin at all times and under all circumstances. No bank ought ever to

be chartered without such restrictions on its business as to secure this result. All other restrictions are comparatively vain. This is the only true touchstone, the only efficient regulator of a paper currency—the only one which can guard the public against over issues and bank suspensions. As a collateral and eventual security it is doubtless wise, and in all cases ought to be required, that banks shall hold an amount of United States or State securities equal to their notes in circulation and pledged for their redemption. This, however, furnishes no adequate security against over issues. On the contrary, it may be perverted to inflate the currency. Indeed, it is possible by this means to convert all the debts of the United States and State governments into bank notes, without reference to the specie required to redeem them. However valuable these securities may be in themselves, they cannot be converted into gold and silver at the moment of pressure, as our experience teaches, in sufficient time to prevent bank suspensions and the depreciation of bank notes. In England, which is to a considerable extent a paper money country, though vastly behind our own in this respect, it was deemed advisable, anterior to the act of Parliament of 1844, which wisely separated the issue of notes from the banking department, for the bank of England always to keep on hand gold and silver equal to one-third of its combined circulation and deposits. If this proportion was no more than sufficient to secure the convertibility of its notes, with the whole of Great Britain, and to some extent the continent of Europe, as a field for its circulation, rendering it almost impossible that a sudden and immediate run to a dangerous amount should be made upon it, the same proportion would certainly be insufficient under our banking system. Each of our fourteen hundred banks has but a limited circumference for its circulation, and in the course of a very few days the depositors and note-holders might demand from such a bank a sufficient amount in specie to compel it to suspend, even although it had coin in its vaults equal to one-third of its immediate liabilities. And yet I am not aware, with the exception of the banks of Louisiana, that any State bank throughout the Union has been required by its charter to keep this or any other proportion of

gold and silver compared with the amount of its combined circulation and deposits. What has been the consequence? In a recent report made by the Treasury Department on the condition of the banks throughout the different States, according to returns dated nearest to January, 1857, the aggregate amount of actual specie in their vaults is \$58,349,838, of their circulation \$214,778,822, and of their deposits \$230,351,352. Thus it appears that these banks, in the aggregate, have considerably less than one dollar in seven of gold and silver compared with their circulation and deposits. It was palpable, therefore, that the very first pressure must drive them to suspension, and deprive the people of a convertible currency with all its disastrous consequences. It is truly wonderful that they should have so long continued to preserve their credit, when a demand for the payment of one-seventh of their immediate liabilities would have driven them into insolvency. And this is the condition of the banks, notwithstanding that four hundred millions of gold from California have flowed in upon us within the last eight years, and the tide still continues to flow. Indeed, such has been the extravagance of bank credits that the banks now hold a considerably less amount of specie, either in proportion to their capital or to their circulation and deposits combined, than they did before the discovery of gold in California. Whilst in the year 1848 their specie, in proportion to their capital, was more than equal to one dollar for four and a half, in 1857 it does not amount to one dollar for every six dollars and thirty-three cents of their capital. In the year 1848 the specie was equal within a very small fraction to one dollar in five of their circulation and deposits; in 1857 it is not equal to one dollar in seven and a half of their circulation and deposits.

From this statement it is easy to account for our financial history for the last forty years. It has been a history of extravagant expansions in the business of the country, followed by ruinous contractions. At successive intervals the best and most enterprising men have been tempted to their ruin by excessive bank loans of mere paper credit, exciting them to extravagant importations of foreign goods, wild speculations, and ruinous and demoralizing stock gambling. When the

crisis arrives, as arrive it must, the banks can extend no relief to the people. In a vain struggle to redeem their liabilities in specie, they are compelled to contract their loans and their issues ; and, at last, in the hour of distress, when their assistance is most needed, they and their debtors together sink into insolvency.

It is this paper system of extravagant expansion, raising the nominal price of every article far beyond its real value, when compared with the cost of similar articles in countries whose circulation is wisely regulated, which has prevented us from competing in our own markets with foreign manufacturers, has produced extravagant importations, and has counteracted the effect of the large incidental protection afforded to our domestic manufactures by the present revenue tariff. But for this, the branches of our manufactures composed of raw materials, the production of our own country—such as cotton, iron, and woollen fabrics—would not only have acquired almost exclusive possession of the home market, but would have created for themselves a foreign market throughout the world.

Deplorable, however, as may be our present financial condition, we may yet indulge in bright hopes for the future. No other nation has ever existed which could have endured such violent expansions and contractions of paper credits without lasting injury ; yet the buoyancy of youth, the energies of our population, and the spirit which never quails before difficulties, will enable us soon to recover from our present financial embarrassment, and may even occasion us speedily to forget the lesson which they have taught.

In the mean time it is the duty of the government, by all proper means within its power, to aid in alleviating the sufferings of the people occasioned by the suspension of the banks, and to provide against a recurrence of the same calamity. Unfortunately, in either aspect of the case, it can do but little. Thanks to the independent treasury, the government has not suspended payment, as it was compelled to do by the failure of the banks in 1837. It will continue to discharge its liabilities to the people in gold and silver. Its disbursements in coin will pass into circulation, and materially assist in restoring

a sound currency. From its high credit, should we be compelled to make a temporary loan, it can be effected on advantageous terms. This, however, shall, if possible, be avoided ; but, if not, then the amount shall be limited to the lowest practicable sum.

I have therefore determined, that whilst no useful government works already in progress shall be suspended, new works, not already commenced, will be postponed, if this can be done without injury to the country. Those necessary for its defence shall proceed as though there had been no crisis in our monetary affairs.

But the federal government cannot do much to provide against a recurrence of existing evils. Even if insurmountable constitutional objections did not exist against the creation of a National Bank, this would furnish no adequate preventive security. The history of the last Bank of the United States abundantly proves the truth of this assertion. Such a bank could not, if it would, regulate the issues and credits of fourteen hundred State banks in such a manner as to prevent the ruinous expansions and contractions in our currency which afflicted the country throughout the existence of the late bank, or secure us against future suspensions. In 1825 an effort was made by the Bank of England to curtail the issues of the country banks, under the most favorable circumstances. The paper currency had been expanded to a ruinous extent, and the Bank put forth all its power to contract it in order to reduce prices and restore the equilibrium of the foreign exchanges. It accordingly commenced a system of curtailment of its loans and issues, in the vain hope that the joint-stock and private banks of the kingdom would be compelled to follow its example. It found, however, that as it contracted they expanded, and at the end of the process, to employ the language of a very high official authority, "whatever reduction of the paper circulation was effected by the Bank of England (in 1825) was more than made up by the issues of the country banks."

But a Bank of the United States would not, if it could, restrain the issues and loans of the State banks, because its duty as a regulator of the currency must often be in direct conflict

with the immediate interest of its stockholders. If we expect one agent to restrain or control another, their interests must, at least in some degree, be antagonistic. But the directors of a Bank of the United States would feel the same interest and the same inclination with the directors of the State banks to expand the currency, to accommodate their favorites and friends with loans, and to declare large dividends. Such has been our experience in regard to the last Bank.

After all, we must mainly rely upon the patriotism and wisdom of the States for the prevention and redress of the evil. If they will afford us a real specie basis for our paper circulation by increasing the denomination of bank notes, first to twenty, and afterwards to fifty dollars; if they will require that the banks shall at all times keep on hand at least one dollar of gold and silver for every three dollars of their circulation and deposits; and if they will provide by a self-executing enactment, which nothing can arrest, that the moment they suspend they shall go into liquidation, I believe that such provisions, with a weekly publication by each bank of a statement of its condition, would go far to secure us against future suspensions of specie payments.

Congress, in my opinion, possesses the power to pass a uniform bankrupt law applicable to all banking institutions throughout the United States, and I strongly recommend its exercise. This would make it the irreversible organic law of each bank's existence, that a suspension of specie payments shall produce its civil death. The instinct of self-preservation would then compel it to perform its duties in such a manner as to escape the penalty and preserve its life.

The existence of banks and the circulation of bank paper are so identified with the habits of our people, that they cannot, at this day, be suddenly abolished without much immediate injury to the country. If we could confine them to their appropriate sphere, and prevent them from administering to the spirit of wild and reckless speculation by extravagant loans and issues, they might be continued with advantage to the public.

But this I say, after long and much reflection: If experience shall prove it to be impossible to enjoy the facilities

which well-regulated banks might afford, without at the same time suffering the calamities which the excesses of the banks have hitherto inflicted upon the country, it would then be far the lesser evil to deprive them altogether of the power to issue a paper currency, and confine them to the functions of banks of deposit and discount.

Our relations with foreign governments are, upon the whole, in a satisfactory condition.

The diplomatic difficulties which existed between the government of the United States and that of Great Britain at the adjournment of the last Congress have been happily terminated by the appointment of a British minister to this country, who has been cordially received.

Whilst it is greatly to the interest, as I am convinced it is the sincere desire, of the governments and people of the two countries to be on terms of intimate friendship with each other, it has been our misfortune almost always to have had some irritating, if not dangerous, outstanding question with Great Britain.

Since the origin of the government we have been employed in negotiating treaties with that power, and afterwards in discussing their true intent and meaning. In this respect, the convention of April 19, 1850, commonly called the Clayton and Bulwer treaty, has been the most unfortunate of all ; because the two governments place directly opposite and contradictory constructions upon its first and most important article. Whilst, in the United States, we believed that this treaty would place both powers upon an exact equality by the stipulation that neither will ever " occupy, or fortify, or colonize, or assume or exercise any dominion " over, any part of Central America, it is contended by the British government that the true construction of this language has left them in the rightful possession of all that portion of Central America which was in their occupancy at the date of the treaty ; in fact, that the treaty is a virtual recognition on the part of the United States of the right of Great Britain, either as owner or protector, to the whole extensive coast of Central America, sweeping round from the Rio Hondo to the port and harbor of San Juan de Nicaragua, together with the adjacent Bay Islands, except the

comparatively small portion of this between the Sarstoon and Cape Honduras. According to their construction, the treaty does no more than simply prohibit them from extending their possessions in Central America beyond the present limits. It is not too much to assert, that if in the United States the treaty had been considered susceptible of such a construction, it never would have been negotiated under the authority of the President, nor would it have received the approbation of the Senate. The universal conviction in the United States was, that when our government consented to violate its traditional and time-honored policy, and to stipulate with a foreign government never to occupy or acquire territory in the Central American portion of our own continent, the consideration for this sacrifice was that Great Britain should, in this respect at least, be placed in the same position with ourselves. Whilst we have no right to doubt the sincerity of the British government in their construction of the treaty, it is at the same time my deliberate conviction that this construction is in opposition both to its letter and its spirit.

Under the late administration negotiations were instituted between the two governments for the purpose, if possible, of removing these difficulties ; and a treaty having this laudable object in view was signed at London on the 17th October, 1856, and was submitted by the President to the Senate on the following 10th of December. Whether this treaty, either in its original or amended form, would have accomplished the object intended without giving birth to new and embarrassing complications between the two governments, may perhaps be well questioned. Certain it is, however, it was rendered much less objectionable by the different amendments made to it by the Senate. The treaty, as amended, was ratified by me on the 12th March, 1857, and was transmitted to London for ratification by the British government. That government expressed its willingness to concur in all the amendments made by the Senate with the single exception of the clause relating to Ruatan and the other islands in the Bay of Honduras. The article in the original treaty, as submitted to the Senate, after reciting that these islands and their inhabitants " having been, by a convention bearing date the 27th day of August, 1856,

between her Britannic Majesty and the republic of Honduras, constituted and declared a free territory under the sovereignty of the said republic of Honduras," stipulated that "the two contracting parties do hereby mutually engage to recognize and respect in all future time the independence and rights of the said free territory as a part of the republic of Honduras."

Upon an examination of this convention between Great Britain and Honduras of the 27th August, 1856, it was found that, whilst declaring the Bay Islands to be "a free territory under the sovereignty of the republic of Honduras," it deprived that republic of rights without which its sovereignty over them could scarcely be said to exist. It divided them from the remainder of Honduras, and gave to their inhabitants a separate government of their own, with legislative, executive, and judicial officers, elected by themselves. It deprived the government of Honduras of the taxing power in every form, and exempted the people of the islands from the performance of military duty, except for their own exclusive defence. It also prohibited that republic from erecting fortifications upon them for their protection—thus leaving them open to invasion from any quarter; and, finally, it provided "that slavery shall not at any time hereafter be permitted to exist therein."

Had Honduras ratified this convention, she would have ratified the establishment of a State substantially independent within her own limits, and a State at all times subject to British influence and control. Moreover, had the United States ratified the treaty with Great Britain in its original form, we should have been bound "to recognize and respect in all future time" these stipulations to the prejudice of Honduras. Being in direct opposition to the spirit and meaning of the Clayton and Bulwer treaty as understood in the United States, the Senate rejected the entire clause, and substituted in its stead a simple recognition of the sovereign right of Honduras to these islands in the following language: "The two contracting parties do hereby mutually engage to recognize and respect the islands of Ruatan, Bonaco, Utila, Barbareta, Helena, and Morat, situate in the Bay of Honduras, and

off the coast of the republic of Honduras, as under the sovereignty and as part of the said republic of Honduras."

Great Britain rejected this amendment, assigning as the only reason that the ratifications of the convention of the 27th August, 1856, between her and Honduras, had not been "exchanged, owing to the hesitation of that government." Had this been done, it is stated that "her Majesty's government would have had little difficulty in agreeing to the modification proposed by the Senate, which then would have had in effect the same signification as the original wording." Whether this would have been the effect—whether the mere circumstance of the exchange of the ratifications of the British convention with Honduras prior in point of time to the ratification of our treaty with Great Britain would, "in effect," have had "the same signification as the original wording," and thus have nullified the amendment of the Senate, may well be doubted. It is, perhaps, fortunate that the question has never arisen.

The British government, immediately after rejecting the treaty as amended, proposed to enter into a new treaty with the United States, similar in all respects to the treaty which they had just refused to ratify, if the United States would consent to add to the Senate's clear and unqualified recognition of the sovereignty of Honduras over the Bay Islands the following conditional stipulation: "Whenever and so soon as the republic of Honduras shall have concluded and ratified a treaty with Great Britain, by which Great Britain shall have ceded, and the republic of Honduras shall have accepted, the said islands, subject to the provisions and conditions contained in such treaty."

This proposition was, of course, rejected. After the Senate had refused to recognize the British convention with Honduras of the 27th August, 1856, with full knowledge of its contents, it was impossible for me, necessarily ignorant of "the provisions and conditions" which might be contained in a future convention between the same parties, to sanction them in advance.

The fact is, that when two nations like Great Britain and the United States, mutually desirous as they are, and I trust ever may be, of maintaining the most friendly relations with

each other, have unfortunately concluded a treaty which they understand in senses directly opposite, the wisest course is to abrogate such a treaty by mutual consent, and to commence anew. Had this been done promptly, all difficulties in Central America would most probably ere this have been adjusted to the satisfaction of both parties. The time spent in discussing the meaning of the Clayton and Bulwer treaty would have been devoted to this praiseworthy purpose, and the task would have been the more easily accomplished because the interest of the two countries in Central America is identical, being confined to securing safe transits over all the routes across the Isthmus.

Whilst entertaining these sentiments, I shall nevertheless not refuse to contribute to any reasonable adjustment of the Central American questions which is not practically inconsistent with the American interpretation of the treaty. Overtures for this purpose have been recently made by the British government in a friendly spirit, which I cordially reciprocate ; but whether this renewed effort will result in success I am not yet prepared to express an opinion. A brief period will determine.

With France our ancient relations of friendship still continue to exist. The French government have in several recent instances, which need not be enumerated, evinced a spirit of good will and kindness towards our country which I heartily reciprocate. It is, notwithstanding, much to be regretted that two nations whose productions are of such a character as to invite the most extensive exchanges and freest commercial intercourse, should continue to enforce ancient and obsolete restrictions of trade against each other. Our commercial treaty with France is, in this respect, an exception from our treaties with all other commercial nations. It jealously levies discriminating duties both on tonnage and on articles, the growth, produce, or manufacture of the one country, when arriving in vessels belonging to the other.

More than forty years ago, on the 3d March, 1815, Congress passed an act offering to all nations to admit their vessels laden with their national productions into the ports of the United States upon the same terms with our own vessels, provided

they would reciprocate to us similar advantages. This act confined the reciprocity to the productions of the respective foreign nations who might enter into the proposed arrangement with the United States. The act of May 24, 1828, removed this restriction, and offered a similar reciprocity to all such vessels, without reference to the origin of their cargoes. Upon these principles our commercial treaties and arrangements have been founded, except with France, and let us hope that this exception may not long exist.

Our relations with Russia remain, as they have ever been, on the most friendly footing. The present emperor, as well as his predecessors, have never failed, when the occasion offered, to manifest their good will to our country ; and their friendship has always been highly appreciated by the government and people of the United States.

With all other European governments, except that of Spain, our relations are as peaceful as we could desire. I regret to say that no progress whatever has been made, since the adjournment of Congress, towards the settlement of any of the numerous claims of our citizens against the Spanish government. Besides, the outrage committed on our flag by the Spanish war-frigate *Ferrolana* on the high seas, off the coast of Cuba, in March, 1855, by firing into the American mail steamer *El Dorado*, and detaining and searching her, remains unacknowledged and unredressed. The general tone and temper of the Spanish government towards that of the United States are much to be regretted. Our present envoy extraordinary and minister plenipotentiary to Madrid has asked to be recalled ; and it is my purpose to send out a new minister to Spain, with special instructions on all questions pending between the two governments, and with a determination to have them speedily and amicably adjusted, if this be possible. In the mean time, whenever our minister urges the just claims of our citizens on the notice of the Spanish government, he is met with the objection that Congress has never made the appropriation recommended by President Polk, in his annual message of December, 1847, "to be paid to the Spanish government for the purpose of distribution among the claimants in the *Amistad* case." A similar recommendation was made

by my immediate predecessor, in his message of December, 1853 ; and entirely concurring with both in the opinion that this indemnity is justly due under the treaty with Spain of the 27th of October, 1795, I earnestly recommend such an appropriation to the favorable consideration of Congress.

A treaty of friendship and commerce was concluded at Constantinople on the 13th December, 1856, between the United States and Persia, the ratifications of which were exchanged at Constantinople on the 13th June, 1857, and the treaty was proclaimed by the President on the 18th August, 1857. This treaty, it is believed, will prove beneficial to American commerce. The Shah has manifested an earnest disposition to cultivate friendly relations with our country, and has expressed a strong wish that we should be represented at Teheran by a minister plenipotentiary ; and I recommend that an appropriation be made for this purpose.

Recent occurrences in China have been unfavorable to a revision of the treaty with that empire of the 3d July, 1844, with a view to the security and extension of our commerce. The 24th article of this treaty stipulated for a revision of it, in case experience should prove this to be requisite ; “ in which case the two governments will, at the expiration of twelve years from the date of said convention, treat amicably concerning the same, by means of suitable persons appointed to conduct such negotiations.” These twelve years expired on the 3d July, 1856 ; but long before that period it was ascertained that important changes in the treaty were necessary ; and several fruitless attempts were made by the commissioner of the United States to effect these changes. Another effort was about to be made for the same purpose by our commissioner, in conjunction with the ministers of England and France, but this was suspended by the occurrence of hostilities in the Canton river between Great Britain and the Chinese Empire. These hostilities have necessarily interrupted the trade of all nations with Canton, which is now in a state of blockade, and have occasioned a serious loss of life and property. Meanwhile the insurrection within the empire against the existing imperial dynasty still continues, and it is difficult to anticipate what will be the result.

Under these circumstances, I have deemed it advisable to appoint a distinguished citizen of Pennsylvania envoy extraordinary and minister plenipotentiary to proceed to China, and to avail himself of any opportunities which may offer to effect changes in the existing treaty favorable to American commerce. He left the United States for the place of his destination in July last, in the war steamer Minnesota. Special ministers to China have also been appointed by the governments of Great Britain and France.

Whilst our minister has been instructed to occupy a neutral position in reference to the existing hostilities at Canton, he will cordially co-operate with the British and French ministers in all peaceful measures to secure by treaty stipulations those just concessions to commerce which the nations of the world have a right to expect, and which China cannot long be permitted to withhold. From assurances received, I entertain no doubt that the three ministers will act in harmonious concert to obtain similar commercial treaties for each of the powers they represent.

We cannot fail to feel a deep interest in all that concerns the welfare of the independent republics on our own continent, as well as of the empire of Brazil.

Our difficulties with New Granada, which a short time since bore so threatening an aspect, are, it is to be hoped, in a fair train of settlement in a manner just and honorable to both parties.

The Isthmus of Central America, including that of Panama, is the great highway between the Atlantic and Pacific, over which a large portion of the commerce of the world is destined to pass. The United States are more deeply interested than any other nation in preserving the freedom and security of all the communications across this isthmus. It is our duty, therefore, to take care that they shall not be interrupted either by invasions from our own country or by wars between the independent States of Central America. Under our treaty with New Granada of the 12th December, 1846, we are bound to guaranty the neutrality of the Isthmus of Panama, through which the Panama railroad passes, "as well as the rights of sovereignty and property which New Granada has and pos-

sesses over the said territory." This obligation is founded upon equivalents granted by the treaty to the government and people of the United States.

Under these circumstances, I recommend to Congress the passage of an act authorizing the President, in case of necessity, to employ the land and naval forces of the United States to carry into effect this guarantee of neutrality and protection. I also recommend similar legislation for the security of any other route across the isthmus in which we may acquire an interest by treaty.

With the independent republics on this continent it is both our duty and our interest to cultivate the most friendly relations. We can never feel indifferent to their fate, and must always rejoice in their prosperity. Unfortunately, both for them and for us, our example and advice have lost much of their influence in consequence of the lawless expeditions which have been fitted out against some of them within the limits of our country. Nothing is better calculated to retard our steady material progress, or impair our character as a nation, than the toleration of such enterprises in violation of the law of nations.

It is one of the first and highest duties of any independent State, in its relations with the members of the great family of nations, to restrain its people from acts of hostile aggression against their citizens or subjects. The most eminent writers on public law do not hesitate to denounce such hostile acts as robbery and murder.

Weak and feeble States, like those of Central America, may not feel themselves able to assert and vindicate their rights. The case would be far different if expeditions were set on foot within our own territories to make private war against a powerful nation. If such expeditions were fitted out from abroad against any portion of our own country, to burn down our cities, murder and plunder our people, and usurp our government, we should call any power on earth to the strictest account for not preventing such enormities.

Ever since the administration of General Washington, acts of Congress have been in force to punish severely the crime of setting on foot a military expedition within the limits of

the United States, to proceed from thence against a nation or State with whom we are at peace. The present neutrality act of April 20, 1818, is but little more than a collection of pre-existing laws. Under this act, the President is empowered to employ the land and naval forces and the militia "for the purpose of preventing the carrying on of any such expedition or enterprise from the territories and jurisdiction of the United States," and the collectors of customs are authorized and required to detain any vessel in port when there is reason to believe she is about to take part in such lawless enterprises.

When it was first rendered probable that an attempt would be made to get up another unlawful expedition against Nicaragua, the Secretary of State issued instructions to the marshals and district attorneys, which were directed by the Secretaries of War and the Navy to the appropriate army and navy officers, requiring them to be vigilant, and to use their best exertions in carrying into effect the provisions of the act of 1818. Notwithstanding these precautions, the expedition has escaped from our shores. Such enterprises can do no possible good to the country, but have already inflicted much injury both on its interests and its character. They have prevented peaceful emigration from the United States to the States of Central America, which could not fail to prove highly beneficial to all the parties concerned. In a pecuniary point of view alone, our citizens have sustained heavy losses from the seizure and closing of the transit route by the San Juan between the two oceans.

The leader of the recent expedition was arrested at New Orleans, but was discharged on giving bail for his appearance in the insufficient sum of two thousand dollars.

I commend the whole subject to the serious attention of Congress, believing that our duty and our interest, as well as our national character, require that we should adopt such measures as will be effectual in restraining our citizens from committing such outrages.

I regret to inform you that the President of Paraguay has refused to ratify the treaty between the United States and that State as amended by the Senate, the signature of which was mentioned in the message of my predecessor to Congress at

the opening of its session in December, 1853. The reasons assigned for this refusal will appear in the correspondence herewith submitted.

It being desirable to ascertain the fitness of the river La Plata and its tributaries for navigation by steam, the United States steamer *Water Witch* was sent thither for that purpose in 1853. This enterprise was successfully carried on until February, 1855, when, whilst in the peaceful prosecution of her voyage up the Parana river, the steamer was fired upon by a Paraguayan fort. The fire was returned; but as the *Water Witch* was of small force, and not designed for offensive operations, she retired from the conflict. The pretext upon which the attack was made was a decree of the President of Paraguay of October, 1854, prohibiting foreign vessels-of-war from navigating the rivers of that State. As Paraguay, however, was the owner of but one bank of the river of that name, the other belonging to Corrientes, a State of the Argentine Confederation, the right of its government to expect that such a decree would be obeyed cannot be acknowledged. But the *Water Witch* was not, properly speaking, a vessel-of-war. She was a small steamer engaged in a scientific enterprise intended for the advantage of commercial states generally. Under these circumstances, I am constrained to consider the attack upon her as unjustifiable, and as calling for satisfaction from the Paraguayan government.

Citizens of the United States, also, who were established in business in Paraguay, have had their property seized and taken from them, and have otherwise been treated by the authorities in an insulting and arbitrary manner, which requires redress.

A demand for these purposes will be made in a firm but conciliatory spirit. This will the more probably be granted if the Executive shall have authority to use other means in the event of a refusal. This is accordingly recommended.

It is unnecessary to state in detail the alarming condition of the Territory of Kansas at the time of my inauguration. The opposing parties then stood in hostile array against each other, and any accident might have relighted the flames of civil war. Besides, at this critical moment, Kansas was left without a governor by the resignation of Governor Geary.

On the 19th of February previous, the territorial legislature had passed a law providing for the election of delegates on the third Monday of June, to a convention to meet on the first Monday of September, for the purpose of framing a constitution preparatory to admission into the Union. This law was in the main fair and just ; and it is to be regretted that all the qualified electors had not registered themselves and voted under its provisions.

At the time of the election for delegates, an extensive organization existed in the Territory, whose avowed object it was, if need be, to put down the lawful government by force, and to establish a government of their own under the so-called Topeka constitution. The persons attached to this revolutionary organization abstained from taking any part in the election.

The act of the territorial legislature had omitted to provide for submitting to the people the constitution which might be framed by the convention ; and in the excited state of public feeling throughout Kansas, an apprehension extensively prevailed that a design existed to force upon them a constitution, in relation to slavery, against their will. In this emergency it became my duty, as it was my unquestionable right, having in view the union of all good citizens in support of the territorial laws, to express an opinion on the true construction of the provisions concerning slavery contained in the organic act of Congress of the 30th May, 1854. Congress declared it to be "the true intent and meaning of this act, not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way." Under it Kansas, "when admitted as a State," was to "be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission."

Did Congress mean by this language that the delegates elected to frame a constitution should have authority finally to decide the question of slavery, or did they intend by leaving it to the people that the people of Kansas themselves should decide this question by a direct vote ? On this subject I confess I had never entertained a serious doubt, and, there-

fore, in my instructions to Governor Walker of the 28th March last, I merely said that when "a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence."

In expressing this opinion it was far from my intention to interfere with the decision of the people of Kansas, either for or against slavery. From this I have always carefully abstained. Intrusted with the duty of taking "care that the laws be faithfully executed," my only desire was that the people of Kansas should furnish to Congress the evidence required by the organic act, whether for or against slavery; and in this manner smooth their passage into the Union. In emerging from the condition of territorial dependence into that of a sovereign State, it was their duty, in my opinion, to make known their will by the votes of the majority, on the direct question, whether this important domestic institution should or should not continue to exist. Indeed, this was the only possible mode in which their will could be authentically ascertained.

The election of delegates to a convention must necessarily take place in separate districts. From this cause it may readily happen, as has often been the case, that a majority of the people of a State or Territory are on one side of a question, whilst a majority of the representatives from the several districts into which it is divided may be upon the other side. This arises from the fact that in some districts delegates may be elected by small majorities, whilst in others those of different sentiments may receive majorities sufficiently great not only to overcome the votes given for the former, but to leave a large majority of the whole people in direct opposition to a majority of the delegates. Besides, our history proves, that influences may be brought to bear on the representative sufficiently powerful to induce him to disregard the will of his constituents. The truth is, that no other authentic and satisfactory mode exists of ascertaining the will of a majority of the people of any State or Territory on an important and exciting question like that of slavery in Kansas, except by leaving it to a direct vote. How wise, then, was it for Congress

to pass over all subordinate and intermediate agencies, and proceed directly to the source of all legitimate power under our institutions !

How vain would any other principle prove in practice ! This may be illustrated by the case of Kansas. Should she be admitted into the Union with a constitution either maintaining or abolishing slavery, against the sentiment of the people, this could have no other effect than to continue and to exasperate the existing agitation during the brief period required to make the constitution conform to the irresistible will of the majority.

The friends and supporters of the Nebraska and Kansas act, when struggling on a recent occasion to sustain its wise provisions before the great tribunal of the American people, never differed about its true meaning on this subject. Everywhere throughout the Union they publicly pledged their faith and their honor that they would cheerfully submit the question of slavery to the decision of the *bona fide* people of Kansas, without any restriction or qualification whatever. All were cordially united upon the great doctrine of popular sovereignty, which is the vital principle of our free institutions. Had it, then, been insinuated from any quarter that it would be a sufficient compliance with the requisitions of the organic law for the members of a convention, thereafter to be elected, to withhold the question of slavery from the people, and to substitute their own will for that of a legally-ascertained majority of all their constituents, this would have been instantly rejected. Everywhere they remained true to the resolution adopted on a celebrated occasion recognizing "the right of the people of all the Territories—including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it—to form a constitution with or without slavery, and be admitted into the Union upon terms of perfect equality with the other States."

The convention to frame a constitution for Kansas met on the first Monday of September last. They were called together by virtue of an act of the territorial legislature, whose lawful existence had been recognized by Congress in

different forms and by different enactments. A large proportion of the citizens of Kansas did not think proper to register their names and to vote at the election for delegates ; but an opportunity to do this having been fairly afforded, their refusal to avail themselves of their right could in no manner affect the legality of the convention.

This convention proceeded to frame a constitution for Kansas, and finally adjourned on the 7th day of November. But little difficulty occurred in the convention, except on the subject of slavery. The truth is, that the general provisions of our recent State constitutions are so similar, and, I may add, so excellent, that the difference between them is not essential. Under the earlier practice of the government, no constitution framed by the convention of a Territory preparatory to its admission into the Union as a State had been submitted to the people. I trust, however, the example set by the last Congress, requiring that the constitution of Minnesota "should be subject to the approval and ratification of the people of the proposed State," may be followed on future occasions. I took it for granted that the convention of Kansas would act in accordance with this example, founded, as it is, on correct principles ; and hence my instructions to Governor Walker, in favor of submitting the constitution to the people, were expressed in general and unqualified terms.

In the Kansas-Nebraska act, however, this requirement, as applicable to the whole constitution, had not been inserted, and the convention were not bound by its terms to submit any other portion of the instrument to an election, except that which relates to the "domestic institution" of slavery. This will be rendered clear by a simple reference to its language. It was "not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way." According to the plain construction of the sentence, the words "domestic institutions" have a direct as they have an appropriate reference to slavery. "Domestic institutions" are limited to the family. The relation between master and slave and a few others are "domestic institutions," and are entirely distinct from institutions of a political char-

acter. Besides, there was no question then before Congress, nor indeed has there since been any serious question before the people of Kansas or the country, except that which relates to the "domestic institution" of slavery.

The convention, after an angry and excited debate, finally determined, by a majority of only two, to submit the question of slavery to the people, though at the last forty-three of the fifty delegates present affixed their signatures to the constitution.

A large majority of the convention were in favor of establishing slavery in Kansas. They accordingly inserted an article in the constitution for this purpose similar in form to those which had been adopted by other territorial conventions. In the schedule, however, providing for the transition from a territorial to a State government, the question has been fairly and explicitly referred to the people, whether they will have a constitution "with or without slavery." It declares that, before the constitution adopted by the convention "shall be sent to Congress for admission into the Union as a State," an election shall be held to decide this question, at which all the white male inhabitants of the Territory above the age of 21 are entitled to vote. They are to vote by ballot; and "the ballots cast at said election shall be endorsed 'constitution with slavery,' and 'constitution with no slavery.'" If there be a majority in favor of the "constitution with slavery," then it is to be transmitted to Congress by the president of the convention in its original form. If, on the contrary, there shall be a majority in favor of the "constitution with no slavery," "then the article providing for slavery shall be stricken from the constitution by the president of this convention;" and it is expressly declared that "no slavery shall exist in the State of Kansas, except that the right of property in slaves now in the Territory shall in no manner be interfered with;" and in that event it is made his duty to have the constitution thus ratified transmitted to the Congress of the United States for the admission of the State into the Union.

At this election every citizen will have an opportunity of expressing his opinion by his vote "whether Kansas shall be received into the Union with or without slavery," and thus

this exciting question may be peacefully settled in the very mode required by the organic law. The election will be held under legitimate authority, and if any portion of the inhabitants shall refuse to vote, a fair opportunity to do so having been presented, this will be their own voluntary act, and they alone will be responsible for the consequences.

Whether Kansas shall be a free or a slave State, must eventually, under some authority, be decided by an election ; and the question can never be more clearly or distinctly presented to the people than it is at the present moment. Should this opportunity be rejected, she may be involved for years in domestic discord, and possibly in civil war, before she can again make up the issue now so fortunately tendered, and again reach the point she has already attained.

Kansas has for some years occupied too much of the public attention. It is high time this should be directed to far more important objects. When once admitted into the Union, whether with or without slavery, the excitement beyond her own limits will speedily pass away, and she will then, for the first time, be left, as she ought to have been long since, to manage her own affairs in her own way. If her constitution on the subject of slavery, or on any other subject, be displeasing to a majority of the people, no human power can prevent them from changing it within a brief period. Under these circumstances it may well be questioned whether the peace and quiet of the whole country are not of greater importance than the mere temporary triumph of either of the political parties in Kansas.

Should the constitution without slavery be adopted by the votes of the majority, the rights of property in slaves now in the Territory are reserved. The number of these is very small ; but if it were greater the provision would be equally just and reasonable. The slaves were brought into the Territory under the Constitution of the United States, and are now the property of their masters. This point has at length been finally decided by the highest judicial tribunal of the country—and this upon the plain principle that when a confederacy of sovereign States acquire a new territory at their joint expense, both equality and justice demand that the citizens of

one and all of them shall have the right to take into it whatever is recognized as property by the common Constitution. To have summarily confiscated the property in slaves already in the Territory would have been an act of gross injustice, and contrary to the practice of the older States of the Union which have abolished slavery.

A territorial government was established for Utah by act of Congress approved the 9th September, 1850, and the Constitution and laws of the United States were thereby extended over it "so far as the same, or any provisions thereof, may be applicable." This act provided for the appointment by the President, by and with the advice and consent of the Senate, of a governor, who was to be ex-officio superintendent of Indian affairs, a secretary, three judges of the supreme court, a marshal, and a district attorney. Subsequent acts provided for the appointment of the officers necessary to extend our land and our Indian system over the Territory. Brigham Young was appointed the first governor on the 20th September, 1850, and has held the office ever since. Whilst Governor Young has been both governor and superintendent of Indian affairs throughout this period, he has been at the same time the head of the church called the Latter-Day Saints, and professes to govern its members and dispose of their property by direct inspiration and authority from the Almighty. His power has been, therefore, absolute over both church and State.

The people of Utah, almost exclusively, belong to this church, and believing with a fanatical spirit that he is governor of the Territory by divine appointment, they obey his commands as if these were direct revelations from Heaven. If, therefore, he chooses that his government shall come into collision with the government of the United States, the members of the Mormon church will yield implicit obedience to his will. Unfortunately, existing facts leave but little doubt that such is his determination. Without entering upon a minute history of occurrences, it is sufficient to say that all the officers of the United States, judicial and executive, with the single exception of two Indian agents, have found it necessary for their own personal safety to withdraw from the Territory,

and there no longer remains any government in Utah but the despotism of Brigham Young. This being the condition of affairs in the Territory, I could not mistake the path of duty. As Chief Executive Magistrate, I was bound to restore the supremacy of the Constitution and laws within its limits. In order to effect this purpose, I appointed a new governor and other federal officers for Utah, and sent with them a military force for their protection, and to aid as a *posse comitatus*, in case of need, in the execution of the laws.

With the religious opinions of the Mormons, as long as they remained mere opinions, however deplorable in themselves and revolting to the moral and religious sentiments of all Christendom, I had no right to interfere. Actions alone, when in violation of the Constitution and laws of the United States, become the legitimate subjects for the jurisdiction of the civil magistrate. My instructions to Governor Cumming have therefore been framed in strict accordance with these principles. At their date a hope was indulged that no necessity might exist for employing the military in restoring and maintaining the authority of the law ; but this hope has now vanished. Governor Young has, by proclamation, declared his determination to maintain his power by force, and has already committed acts of hostility against the United States. Unless he should retrace his steps the Territory of Utah will be in a state of open rebellion. He has committed these acts of hostility notwithstanding Major Van Vliet, an officer of the army, sent to Utah by the commanding general to purchase provisions for the troops, had given him the strongest assurances of the peaceful intentions of the government, and that the troops would only be employed as a *posse comitatus* when called on by the civil authority to aid in the execution of the laws.

There is reason to believe that Governor Young has long contemplated this result. He knows that the continuance of his despotic power depends upon the exclusion of all settlers from the Territory, except those who will acknowledge his divine mission and implicitly obey his will ; and that an enlightened public opinion there would soon prostrate institutions at war with the laws both of God and man. He has, therefore, for several years, in order to maintain

his independence, been industriously employed in collecting and fabricating arms and munitions of war, and in disciplining the Mormons for military service. As superintendent of Indian affairs he has had an opportunity of tampering with the Indian tribes, and exciting their hostile feelings against the United States. This, according to our information, he has accomplished in regard to some of these tribes, while others have remained true to their allegiance, and have communicated his intrigues to our Indian agents. He has laid in a store of provisions for three years, which, in case of necessity, as he informed Major Van Vliet, he will conceal, "and then take to the mountains, and bid defiance to all the powers of the government."

A great part of all this may be idle boasting ; but yet no wise government will lightly estimate the efforts which may be inspired by such frenzied fanaticism as exists among the Mormons in Utah. This is the first rebellion which has existed in our Territories ; and humanity itself requires that we should put it down in such a manner that it shall be the last. To trifle with it would be to encourage it and to render it formidable. We ought to go there with such an imposing force as to convince these deluded people that resistance would be vain, and thus spare the effusion of blood. We can in this manner best convince them that we are their friends, not their enemies. In order to accomplish this object, it will be necessary, according to the estimate of the War Department, to raise four additional regiments ; and this I earnestly recommend to Congress. At the present moment of depression in the revenues of the country I am sorry to be obliged to recommend such a measure ; but I feel confident of the support of Congress, cost what it may, in suppressing the insurrection and in restoring and maintaining the sovereignty of the Constitution and laws over the Territory of Utah.

I recommend to Congress the establishment of a territorial government over Arizona, incorporating with it such portions of New Mexico as they may deem expedient. I need scarcely adduce arguments in support of this recommendation. We are bound to protect the lives and the property of our citizens inhabiting Arizona, and these are now without any efficient

protection. Their present number is already considerable, and is rapidly increasing, notwithstanding the disadvantages under which they labor. Besides, the proposed Territory is believed to be rich in mineral and agricultural resources, especially in silver and copper. The mails of the United States to California are now carried over it throughout its whole extent, and this route is known to be the nearest, and believed to be the best to the Pacific.

Long experience has deeply convinced me that a strict construction of the powers granted to Congress is the only true, as well as the only safe, theory of the Constitution. Whilst this principle shall guide my public conduct, I consider it clear that under the war-making power Congress may appropriate money for the construction of a military road through the territories of the United States, when this is absolutely necessary for the defence of any of the States against foreign invasion. The Constitution has conferred upon Congress power "to declare war," "to raise and support armies," "to provide and maintain a navy," and to call forth the militia to "repel invasions." These high sovereign powers necessarily involve important and responsible public duties, and among them there is none so sacred and so imperative as that of preserving our soil from the invasion of a foreign enemy. The Constitution has, therefore, left nothing on this point to construction, but expressly requires that "the United States shall protect each of them [the States] against invasion." Now, if a military road over our own territories be indispensably necessary to enable us to meet and repel the invader, it follows as a necessary consequence not only that we possess the power, but it is our imperative duty to construct such a road. It would be an absurdity to invest a government with the unlimited power to make and conduct war, and at the same time deny to it the only means of reaching and defeating the enemy at the frontier. Without such a road it is quite evident we cannot "protect" California and our Pacific possessions "against invasion." We cannot by any other means transport men and munitions of war from the Atlantic States in sufficient time successfully to defend these remote and distant portions of the republic.

Experience has proved that the routes across the isthmus of Central America are at best but a very uncertain and unreliable mode of communication. But even if this were not the case, they would at once be closed against us in the event of war with a naval power so much stronger than our own as to enable it to blockade the ports at either end of these routes. After all, therefore, we can only rely upon a military road through our own territories ; and ever since the origin of the government Congress has been in the practice of appropriating money from the public treasury for the construction of such roads.

The difficulties and the expense of constructing a military railroad to connect our Atlantic and Pacific States have been greatly exaggerated. The distance on the Arizona route near the 32d parallel of north latitude, between the western boundary of Texas on the Rio Grande and the eastern boundary of California on the Colorado, from the best explorations now within our knowledge, does not exceed four hundred and seventy miles, and the face of the country is, in the main, favorable. For obvious reasons the government ought not to undertake the work itself by means of its own agents. This ought to be committed to other agencies, which Congress might assist, either by grants of land or money, or by both, upon such terms and conditions as they may deem most beneficial for the country. Provision might thus be made not only for the safe, rapid, and economical transportation of troops and munitions of war, but also of the public mails. The commercial interests of the whole country, both east and west, would be greatly promoted by such a road ; and, above all, it would be a powerful additional bond of Union. And although advantages of this kind, whether postal, commercial, or political, cannot confer constitutional power, yet they may furnish auxiliary arguments in favor of expediting a work which, in my judgment, is clearly embraced within the war-making power.

For these reasons I commend to the friendly consideration of Congress the subject of the Pacific railroad, without finally committing myself to any particular route.

The report of the Secretary of the Treasury will furnish a

detailed statement of the condition of the public finances and of the respective branches of the public service devolved upon that department of the government. By this report it appears that the amount of revenue received from all sources into the treasury during the fiscal year ending the 30th June, 1857, was sixty-eight million six hundred and thirty-one thousand five hundred and thirteen dollars and sixty-seven cents, (\$68,631,513 67,) which amount, with the balance of nineteen million nine hundred and one thousand three hundred and twenty-five dollars and forty-five cents, (\$19,901,325 45,) remaining in the treasury at the commencement of the year, made an aggregate for the service of the year of eighty-eight million five hundred and thirty-two thousand eight hundred and thirty-nine dollars and twelve cents, (\$88,532,839 12.)

The public expenditures for the fiscal year ending 30th June, 1857, amounted to seventy million eight hundred and twenty-two thousand seven hundred and twenty-four dollars and eighty-five cents, (\$70,822,724 85,) of which five million nine hundred and forty-three thousand eight hundred and ninety-six dollars and ninety-one cents (\$5,943,896 91) were applied to the redemption of the public debt, including interest and premium, leaving in the treasury at the commencement of the present fiscal year on the 1st July, 1857, seventeen million seven hundred and ten thousand one hundred and fourteen dollars and twenty-seven cents, (\$17,710,114 27.)

The receipts into the treasury for the first quarter of the present fiscal year, commencing 1st July, 1857, were twenty million nine hundred and twenty-nine thousand eight hundred and nineteen dollars and eighty-one cents, (\$20,929,819 81,) and the estimated receipts of the remaining three quarters to the 30th June, 1858, are thirty-six million seven hundred and fifty thousand dollars, (\$36,750,000,) making, with the balance before stated, an aggregate of seventy-five million three hundred and eighty-nine thousand nine hundred and thirty-four dollars and eight cents (\$75,389,934 08) for the service of the present fiscal year.

The actual expenditures during the first quarter of the present fiscal year were twenty-three million seven hundred and fourteen thousand five hundred and twenty-eight dollars and thirty-

seven cents, (\$23,714,528 37,) of which three million eight hundred and ninety-five thousand two hundred and thirty-two dollars and thirty-nine cents (\$3,895,232 39) were applied to the redemption of the public debt, including interest and premium. The probable expenditures of the remaining three quarters, to 30th June, 1858, are fifty-one million two hundred and forty-eight thousand five hundred and thirty dollars and four cents, (\$51,248,530 04,) including interest on the public debt, making an aggregate of seventy-four million nine hundred and sixty-three thousand fifty-eight dollars and forty-one cents, (\$74,963,058 41,) leaving an estimated balance in the treasury at the close of the present fiscal year of four hundred and twenty-six thousand eight hundred and seventy-five dollars and sixty-seven cents, (\$426,875 67.)

The amount of the public debt at the commencement of the present fiscal year was twenty-nine million sixty thousand three hundred and eighty-six dollars and ninety cents, (\$29,060,386 90.)

The amount redeemed since the 1st of July was three million eight hundred and ninety-five thousand two hundred and thirty-two dollars and thirty-nine cents, (\$3,895,232 39,) leaving a balance unredeemed at this time of twenty-five million one hundred and sixty-five thousand one hundred and fifty-four dollars and fifty-one cents, (\$25,165,154 51.)

The amount of estimated expenditures for the remaining three quarters of the present fiscal year will, in all probability, be increased from the causes set forth in the report of the Secretary. His suggestion, therefore, that authority should be given to supply any temporary deficiency by the issue of a limited amount of treasury notes, is approved, and I accordingly recommend the passage of such a law.

As stated in the report of the Secretary, the tariff of March 3, 1857, has been in operation for so short a period of time, and under circumstances so unfavorable to a just development of its results as a revenue measure, that I should regard it as inexpedient, at least for the present, to undertake its revision.

I transmit herewith the reports made to me by the Secretaries of War and of the Navy, of the Interior and of the Postmaster General. They all contain valuable and important

information and suggestions, which I commend to the favorable consideration of Congress.

I have already recommended the raising of four additional regiments, and the report of the Secretary of War presents strong reasons, proving this increase of the army, under existing circumstances, to be indispensable.

I would call the special attention of Congress to the recommendation of the Secretary of the Navy in favor of the construction of ten small war steamers of light draught. For some years the government has been obliged on many occasions to hire such steamers from individuals to supply its pressing wants. At the present moment we have no armed vessel in the navy which can penetrate the rivers of China. We have but few which can enter any of the harbors south of Norfolk, although many millions of foreign and domestic commerce annually pass in and out of these harbors. Some of our most valuable interests and most vulnerable points are thus left exposed. This class of vessels of light draught, great speed, and heavy guns would be formidable in coast defence. The cost of their construction will not be great, and they will require but a comparatively small expenditure to keep them in commission. In time of peace they will prove as effective as much larger vessels, and more useful. One of them should be at every station where we maintain a squadron, and three or four should be constantly employed on our Atlantic and Pacific coasts. Economy, utility, and efficiency combine to recommend them as almost indispensable. Ten of these small vessels would be of incalculable advantage to the naval service, and the whole cost of their construction would not exceed two million three hundred thousand dollars, or \$230,000 each.

The report of the Secretary of the Interior is worthy of grave consideration. It treats of the numerous, important, and diversified branches of domestic administration intrusted to him by law. Among these the most prominent are the public lands and our relations with the Indians.

Our system for the disposal of the public lands, originating with the fathers of the republic, has been improved as experience pointed the way, and gradually adapted to the growth and settlement of our western States and Territories. It has

worked well in practice. Already thirteen States and seven Territories have been carved out of these lands, and still more than a thousand millions of acres remain unsold. What a boundless prospect this presents to our country of future prosperity and power !

We have heretofore disposed of 363,862,464 acres of the public land.

Whilst the public lands, as a source of revenue, are of great importance, their importance is far greater as furnishing homes for a hardy and independent race of honest and industrious citizens, who desire to subdue and cultivate the soil. They ought to be administered mainly with a view of promoting this wise and benevolent policy. In appropriating them for any other purpose, we ought to use even greater economy than if they had been converted into money and the proceeds were already in the public treasury. To squander away this richest and noblest inheritance which any people have ever enjoyed upon objects of doubtful constitutionality or expediency, would be to violate one of the most important trusts ever committed to any people. Whilst I do not deny to Congress the power, when acting *bona fide* as a proprietor, to give away portions of them for the purpose of increasing the value of the remainder, yet, considering the great temptation to abuse this power, we cannot be too cautious in its exercise.

Actual settlers under existing laws are protected against other purchasers at the public sales, in their right of pre-emption, to the extent of a quarter-section, or 160 acres of land. The remainder may then be disposed of at public or entered at private sale in unlimited quantities.

Speculation has of late years prevailed to a great extent in the public lands. The consequence has been that large portions of them have become the property of individuals and companies, and thus the price is greatly enhanced to those who desire to purchase for actual settlement. In order to limit the area of speculation as much as possible, the extinction of the Indian title and the extension of the public surveys ought only to keep pace with the tide of emigration.

If Congress should hereafter grant alternate sections to

States or companies, as they have done heretofore, I recommend that the intermediate sections retained by the government should be subject to pre-emption by actual settlers.

It ought ever to be our cardinal policy to reserve the public lands as much as may be for actual settlers, and this at moderate prices. We shall thus not only best promote the prosperity of the new States and Territories, and the power of the Union, but shall secure homes for our posterity for many generations.

The extension of our limits has brought within our jurisdiction many additional and populous tribes of Indians, a large proportion of which are wild, intractable, and difficult to control. Predatory and warlike in their disposition and habits, it is impossible altogether to restrain them from committing aggressions on each other, as well as upon our frontier citizens and those emigrating to our distant States and Territories. Hence expensive military expeditions are frequently necessary to overawe and chastise the more lawless and hostile.

The present system of making them valuable presents to influence them to remain at peace has proved ineffectual. It is believed to be the better policy to colonize them in suitable localities, where they can receive the rudiments of education and be gradually induced to adopt habits of industry. So far as the experiment has been tried it has worked well in practice, and it will doubtless prove to be less expensive than the present system.

The whole number of Indians within our territorial limits is believed to be, from the best data in the Interior Department, about 325,000.

The tribes of Cherokees, Choctaws, Chickasaws, and Creeks, settled in the territory set apart for them west of Arkansas, are rapidly advancing in education and in all the arts of civilization and self-government; and we may indulge the agreeable anticipation that at no very distant day they will be incorporated into the Union as one of the sovereign States.

It will be seen from the report of the Postmaster General that the Post Office Department still continues to depend on the treasury, as it has been compelled to do for several years past, for an important portion of the means of sustaining and

extending its operations. Their rapid growth and expansion are shown by a decennial statement of the number of post offices, and the length of post roads, commencing with the year 1827. In that year there were 7,000 post offices ; in 1837, 11,177 ; in 1847, 15,146 ; and in 1857 they number 26,586. In this year 1,725 post offices have been established and 704 discontinued, leaving a net increase of 1,021. The postmasters of 368 offices are appointed by the President.

The length of post roads in 1827 was 105,336 miles ; in 1837, 141,242 miles ; in 1847, 153,818 miles ; and in the year 1857 there are 242,601 miles of post road, including 22,530 miles of railroad, on which the mails are transported.

The expenditures of the department for the fiscal year ending on the 30th June, 1857, as adjusted by the Auditor, amounted to \$11,507,670. To defray these expenditures there was to the credit of the department on the 1st July, 1856, the sum of \$789,599 ; the gross revenue of the year, including the annual allowances for the transportation of free mail matter, produced \$8,053,951 ; and the remainder was supplied by the appropriation from the treasury of \$2,250,000, granted by the act of Congress approved August 18, 1856, and by the appropriation of \$666,883 made by the act of March 3, 1857, leaving \$252,763 to be carried to the credit of the department in the accounts of the current year. I commend to your consideration the report of the department in relation to the establishment of the overland mail route from the Mississippi river to San Francisco, California. The route was selected with my full concurrence, as the one, in my judgment, best calculated to attain the important objects contemplated by Congress.

The late disastrous monetary revulsion may have one good effect should it cause both the government and the people to return to the practice of a wise and judicious economy both in public and private expenditures.

An overflowing treasury has led to habits of prodigality and extravagance in our legislation. It has induced Congress to make large appropriations to objects for which they never would have provided had it been necessary to raise the amount of revenue required to meet them by increased taxation or by

loans. We are now compelled to pause in our career, and to scrutinize our expenditures with the utmost vigilance ; and in performing this duty, I pledge my co-operation to the extent of my constitutional competency.

It ought to be observed at the same time that true public economy does not consist in withholding the means necessary to accomplish important national objects intrusted to us by the Constitution, and especially such as may be necessary for the common defence. In the present crisis of the country it is our duty to confine our appropriations to objects of this character, unless in cases where justice to individuals may demand a different course. In all cases care ought to be taken that the money granted by Congress shall be faithfully and economically applied.

Under the Federal Constitution, "every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law," be approved and signed by the President ; and, if not approved, "he shall return it with his objections to that house in which it originated." In order to perform this high and responsible duty, sufficient time must be allowed the President to read and examine every bill presented to him for approval. Unless this be afforded, the Constitution becomes a dead letter in this particular ; and even worse, it becomes a means of deception. Our constituents, seeing the President's approval and signature attached to each act of Congress, are induced to believe that he has actually performed this duty, when, in truth, nothing is, in many cases, more unfounded.

From the practice of Congress, such an examination of each bill as the Constitution requires has been rendered impossible. The most important business of each session is generally crowded into its last hours, and the alternative presented to the President is either to violate the constitutional duty which he owes to the people, and approve bills which, for want of time, it is impossible he should have examined, or, by his refusal to do this, subject the country and individuals to great loss and inconvenience.

Besides, a practice has grown up of late years to legislate in appropriation bills, at the last hours of the session, on new

and important subjects. This practice constrains the President either to suffer measures to become laws which he does not approve, or to incur the risk of stopping the wheels of the government by vetoing an appropriation bill. Formerly, such bills were confined to specific appropriations for carrying into effect existing laws and the well-established policy of the country, and little time was then required by the President for their examination.

For my own part, I have deliberately determined that I shall approve no bill which I have not examined, and it will be a case of extreme and most urgent necessity which shall ever induce me to depart from this rule. I therefore respectfully, but earnestly, recommend that the two Houses would allow the President at least two days previous to the adjournment of each session within which no new bill shall be presented to him for approval. Under the existing joint rule one day is allowed ; but this rule has been hitherto so constantly suspended in practice, that important bills continue to be presented to him up till the very last moments of the session. In a large majority of cases no great public inconvenience can arise from the want of time to examine their provisions, because the Constitution has declared that if a bill be presented to the President within the last ten days of the session, he is not required to return it, either with an approval or with a veto, "in which case it shall not be a law." It may then lie over, and be taken up and passed at the next session. Great inconvenience would only be experienced in regard to appropriation bills ; but fortunately, under the late excellent law allowing a salary, instead of a per diem, to members of Congress, the expense and inconvenience of a called session will be greatly reduced.

I cannot conclude without commending to your favorable consideration the interest of the people of this District. Without a representative on the floor of Congress, they have for this very reason peculiar claims upon our just regard. To this I know, from my long acquaintance with them, they are eminently entitled.

JAMES BUCHANAN.

WASHINGTON, *December 8, 1857.*

ANNUAL MESSAGE TO THE TWO HOUSES OF
CONGRESS AT THE COMMENCEMENT
OF THE SECOND SESSION OF THE
THIRTY-FIFTH CONGRESS.

Kansas affairs.—Peoples of that Territory are now authorized to form another constitution, but not until its population shall equal the ratio necessary to elect a member of the House of Representatives.—The country at large should not again be convulsed with its affairs until then.—The same rule should be applied in future to all Territories seeking admission into the Union.—This is but justice to the older States.—Forty or fifty thousand people in a Territory cannot justly be made the equal of Virginia or New York in the Senate of the United States.—Congress urged to pass a general act on this subject.—Affairs of Utah in a better condition.—Despatch of Messrs. Powell and McCulloch to Utah, with a proclamation to its inhabitants warning them of the hopelessness of rebellion against the United States and offering pardon.—Good results, and the authority of the Constitution and laws restored.—Conclusion of a satisfactory treaty with China, also with Japan.—Long-pending controversy with Great Britain in relation to visitation and search of our ships on the high seas amicably adjuvated and the practice abandoned.—Affairs under the Clayton-Bulwer treaty of April, 1850, still unsettled.—Our relations with Spain still unsatisfactory.—Cuba in its colonial condition a constant source of injury and annoyance, and the only spot in the world where the slave trade is still tolerated.—Purchase of Cuba desirable for strategic and many other reasons.—Affairs with Mexico unsatisfactory.—The various transit routes in Central America, and recommendations in regard to them for the protection of our citizens and their property en route to California.—Other foreign relations.—Paraguay.—Financial affairs of the country and Government.—The tariff and the national debt.—Reports of departments.—Urges the building of a transcontinental Pacific railway.—Asiatic trade.—Disposal of captured slaves.—District of Columbia commended to Congress.

Fellow-citizens of the Senate and House of Representatives :

When we compare the condition of the country at the present day with what it was one year ago, at the meeting of Congress, we have much reason for gratitude to that Almighty Providence which has never failed to interpose for our relief

at the most critical periods of our history. One year ago the sectional strife between the North and the South on the dangerous subject of slavery had again become so intense as to threaten the peace and perpetuity of the confederacy. The application for the admission of Kansas as a State into the Union fostered this unhappy agitation, and brought the whole subject once more before Congress. It was the desire of every patriot that such measures of legislation might be adopted as would remove the excitement from the States and confine it to the Territory where it legitimately belonged. Much has been done, I am happy to say, towards the accomplishment of this object during the last session of Congress.

The Supreme Court of the United States had previously decided that all American citizens have an equal right to take into the Territories whatever is held as property under the laws of any of the States, and to hold such property there under the guardianship of the Federal Constitution, so long as the territorial condition shall remain.

This is now a well established position, and the proceedings of the last session were alone wanting to give it practical effect. The principle has been recognized, in some form or other, by an almost unanimous vote of both houses of Congress, that a Territory has a right to come into the Union either as a free or a slave State, according to the will of a majority of its people. The just equality of all the States has thus been vindicated, and a fruitful source of dangerous dissension among them has been removed.

Whilst such has been the beneficial tendency of your legislative proceedings outside of Kansas, their influence has nowhere been so happy as within that Territory itself. Left to manage and control its own affairs in its own way, without the pressure of external influence, the revolutionary Topeka organization and all resistance to the territorial government established by Congress have been finally abandoned. As a natural consequence, that fine Territory now appears to be tranquil and prosperous, and is attracting increasing thousands of immigrants to make it their happy home.

The past unfortunate experience of Kansas has enforced the lesson, so often already taught, that resistance to lawful author-

ity, under our form of government, cannot fail in the end to prove disastrous to its authors. Had the people of the Territory yielded obedience to the laws enacted by their legislature, it would at the present moment have contained a large additional population of industrious and enterprising citizens, who have been deterred from entering its borders by the existence of civil strife and organized rebellion.

It was the resistance to rightful authority and the persevering attempts to establish a revolutionary government under the Topeka constitution which caused the people of Kansas to commit the grave error of refusing to vote for delegates to the convention to frame a constitution under a law not denied to be fair and just in its provisions. This refusal to vote has been the prolific source of all the evils which have followed. In their hostility to the territorial government they disregarded the principle, absolutely essential to the working of our form of government, that a majority of those who vote—not the majority who may remain at home, from whatever cause—must decide the result of an election. For this reason, seeking to take advantage of their own error, they denied the authority of the convention thus elected to frame a constitution.

The convention, notwithstanding, proceeded to adopt a constitution unexceptionable in its general features, and providing for the submission of the slavery question to a vote of the people, which, in my opinion, they were bound to do under the Kansas and Nebraska act. This was the all-important question which had alone convulsed the Territory; and yet the opponents of the lawful government, persisting in their first error, refrained from exercising their right to vote, and preferred that slavery should continue, rather than surrender their revolutionary Topeka organization.

A wiser and better spirit seemed to prevail before the first Monday of January last, when an election was held under the constitution. A majority of the people then voted for a governor and other State officers, for a member of Congress, and members of the State legislature. This election was warmly contested by the two political parties in Kansas, and a greater vote was polled than at any previous election. A large

majority of the members of the legislature elect belonged to that party which had previously refused to vote. The anti-slavery party were thus placed in the ascendant, and the political power of the State was in their own hands. Had Congress admitted Kansas into the Union under the Lecompton constitution, the legislature might, at its very first session, have submitted the question to a vote of the people, whether they would or would not have a convention to amend their constitution, either on the slavery or any other question, and have adopted all necessary means for giving speedy effect to the will of the majority. Thus the Kansas question would have been immediately and finally settled.

Under these circumstances, I submitted to Congress the constitution thus framed, with all the officers already elected necessary to put the State government into operation, accompanied by a strong recommendation in favor of the admission of Kansas as a State. In the course of my long public life I have never performed any official act which, in the retrospect, has afforded me more heartfelt satisfaction. Its admission could have inflicted no possible injury on any human being, whilst it would, within a brief period, have restored peace to Kansas and harmony to the Union. In that event, the slavery question would ere this have been finally settled, according to the legally expressed will of a majority of the voters, and popular sovereignty would thus have been vindicated in a constitutional manner.

With my deep convictions of duty, I could have pursued no other course. It is true, that, as an individual, I had expressed an opinion, both before and during the session of the convention, in favor of submitting the remaining clauses of the constitution, as well as that concerning slavery, to the people. But, acting in an official character, neither myself nor any human authority had the power to rejudge the proceedings of the convention, and declare the constitution which it had framed to be a nullity. To have done this would have been a violation of the Kansas and Nebraska act, which left the people of the Territory "perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." It would equally

have violated the great principle of popular sovereignty, at the foundation of our institutions, to deprive the people of the power, if they thought proper to exercise it, of confiding to delegates elected by themselves the trust of framing a constitution, without requiring them to subject their constituents to the trouble, expense, and delay of a second election. It would have been in opposition to many precedents in our history, commencing in the very best age of the republic, of the admission of Territories as States into the Union, without a previous vote of the people approving their constitution.

It is to be lamented that a question so insignificant, when viewed in its practical effects on the people of Kansas, whether decided one way or the other, should have kindled such a flame of excitement throughout the country. This reflection may prove to be a lesson of wisdom and of warning for our future guidance. Practically considered, the question is simply whether the people of that Territory should first come into the Union and then change any provision in their constitution not agreeable to themselves, or accomplish the very same object by remaining out of the Union and framing another constitution in accordance with their will? In either case, the result would be precisely the same. The only difference in point of fact is, that the object would have been much sooner attained, and the pacification of Kansas more speedily effected, had it been admitted as a State during the last session of Congress.

My recommendation, however, for the immediate admission of Kansas, failed to meet the approbation of Congress. They deemed it wiser to adopt a different measure for the settlement of the question. For my own part, I should have been willing to yield my assent to almost any constitutional measure to accomplish this object. I therefore cordially acquiesced in what has been called the English Compromise, and approved the "Act for the admission of the State of Kansas into the Union" upon the terms therein prescribed.

Under the ordinance which accompanied the Lecompton constitution the people of Kansas had claimed double the quantity of public lands for the support of common schools which had ever been previously granted to any State upon en-

tering the Union ; and also the alternate sections of land for twelve miles on each side of two railroads, proposed to be constructed from the northern to the southern boundary, and from the eastern to the western boundary of the State. Congress, deeming these claims unreasonable, provided, by the act of May 4, 1858, to which I have just referred, for the admission of the State on an equal footing with the original States, but "upon the fundamental condition precedent" that a majority of the people thereof, at an election to be held for that purpose, should, in place of the very large grants of public lands which they had demanded under the ordinance, accept such grants as had been made to Minnesota and other new States. Under this act, should a majority reject the proposition offered them, "it shall be deemed and held that the people of Kansas do not desire admission into the Union with said constitution under the conditions set forth in said proposition." In that event, the act authorizes the people of the Territory to elect delegates to form a constitution and State government for themselves "whenever, and not before, it is ascertained by a census, duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States." The delegates thus assembled "shall first determine by a vote whether it is the wish of the people of the proposed State to be admitted into the Union at that time, and if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government in conformity with the Federal Constitution." After this constitution shall have been formed, Congress, carrying out the principles of popular sovereignty and non-intervention, have left "the mode and manner of its approval or ratification by the people of the proposed State" to be "prescribed by law," and they "shall then be admitted into the Union as a State under such constitution thus fairly and legally made, with or without slavery, as said constitution may prescribe."

An election was held throughout Kansas, in pursuance of the provisions of this act, on the second day of August last, and it resulted in the rejection, by a large majority, of the

proposition submitted to the people by Congress. This being the case, they are now authorized to form another constitution, preparatory to admission into the Union, but not until their number, as ascertained by a census, shall equal or exceed the ratio required to elect a member to the House of Representatives.

It is not probable, in the present state of the case, that a third constitution can be lawfully framed and presented to Congress by Kansas before its population shall have reached the designated number. Nor is it to be presumed that, after their sad experience in resisting the territorial laws, they will attempt to adopt a constitution in express violation of the provisions of an act of Congress. During the session of 1856 much of the time of Congress was occupied on the question of admitting Kansas under the Topeka constitution. Again, nearly the whole of the last session was devoted to the question of its admission under the Lecompton constitution. Surely it is not unreasonable to require the people of Kansas to wait, before making a third attempt, until the number of their inhabitants shall amount to ninety-three thousand four hundred and twenty. During this brief period the harmony of the States, as well as the great business interests of the country, demand that the people of the Union shall not for a third time be convulsed by another agitation on the Kansas question. By waiting for a short time, and acting in obedience to law, Kansas will glide into the Union without the slightest impediment.

This excellent provision, which Congress has applied to Kansas, ought to be extended and rendered applicable to all Territories which may hereafter seek admission into the Union.

Whilst Congress possesses the undoubted power of admitting a new State into the Union, however small may be the number of its inhabitants, yet this power ought not, in my opinion, to be exercised before the population shall amount to the ratio required by the act for the admission of Kansas. Had this been previously the rule, the country would have escaped all the evils and misfortunes to which it has been exposed by the Kansas question.

Of course, it would be unjust to give this rule a retrospective application, and exclude a State which, acting upon the past practice of the government, has already formed its constitution, elected its legislature and other officers, and is now prepared to enter the Union.

The rule ought to be adopted, whether we consider its bearing on the people of the Territories or upon the people of the existing States. Many of the serious dissensions which have prevailed in Congress and throughout the country would have been avoided had this rule been established at an earlier period of the government.

Immediately upon the formation of a new Territory, people from different States and from foreign countries rush into it, for the laudable purpose of improving their condition. Their first duty to themselves is to open and cultivate farms, to construct roads, to establish schools, to erect places of religious worship, and to devote their energies generally to reclaim the wilderness, and to lay the foundations of a flourishing and prosperous commonwealth. If, in this incipient condition, with a population of a few thousand, they should prematurely enter the Union, they are oppressed by the burden of State taxation, and the means necessary for the improvement of the Territory and the advancement of their own interests are thus diverted to very different purposes.

The federal government has ever been a liberal parent to the Territories, and a generous contributor to the useful enterprises of the early settlers. It has paid the expenses of their governments and legislative assemblies out of the common treasury, and thus relieved them from a heavy charge. Under these circumstances, nothing can be better calculated to retard their material progress than to divert them from their useful employments, by prematurely exciting angry political contests among themselves, for the benefit of aspiring leaders. It is surely no hardship for embryo governors, senators, and members of Congress, to wait until the number of inhabitants shall equal those of a single congressional district. They surely ought not to be permitted to rush into the Union with a population less than one-half of several of the large counties in the interior of some of the States. This was the condition of

Kansas when it made application to be admitted under the Topeka constitution. Besides, it requires some time to render the mass of a population collected in a new Territory at all homogeneous, and to unite them on anything like a fixed policy. Establish the rule, and all will look forward to it and govern themselves accordingly.

But justice to the people of the several States requires that this rule should be established by Congress. Each State is entitled to two senators and at least one representative in Congress. Should the people of the States fail to elect a Vice President, the power devolves upon the Senate to select this officer from the two highest candidates on the list. In case of the death of the President, the Vice President, thus elected by the Senate, becomes President of the United States. On all questions of legislation the senators from the smallest States of the Union have an equal vote with those from the largest. The same may be said in regard to the ratification of treaties and of Executive appointments. All this has worked admirably in practice, whilst it conforms in principle with the character of a government instituted by sovereign States. I presume no American citizen would desire the slightest change in the arrangement. Still, is it not unjust and unequal to the existing States to invest some forty or fifty thousand people collected in a Territory with the attributes of sovereignty, and place them on an equal footing with Virginia and New York in the Senate of the United States?

For these reasons, I earnestly recommend the passage of a general act, which shall provide that, upon the application of a territorial legislature, declaring their belief that the Territory contains a number of inhabitants which, if in a State, would entitle them to elect a member of Congress, it shall be the duty of the President to cause a census of the inhabitants to be taken, and if found sufficient, then by the terms of this act to authorize them to proceed "in their own way" to frame a State constitution preparatory to admission into the Union. I also recommend that an appropriation may be made, to enable the President to take a census of the people of Kansas.

The present condition of the Territory of Utah, when con-

trasted with what it was one year ago, is a subject for congratulation. It was then in a state of open rebellion, and, cost what it might, the character of the government required that this rebellion should be suppressed and the Mormons compelled to yield obedience to the Constitution and the laws. In order to accomplish this object, as I informed you in my last annual message, I appointed a new governor instead of Brigham Young, and other federal officers to take the place of those who, consulting their personal safety, had found it necessary to withdraw from the Territory. To protect these civil officers, and to aid them, as a *posse comitatus*, in the execution of the laws in case of need, I ordered a detachment of the army to accompany them to Utah. The necessity for adopting these measures is now demonstrated.

On the 15th of September, 1857, Governor Young issued his proclamation, in the style of an independent sovereign, announcing his purpose to resist by force of arms the entry of the United States troops into our own Territory of Utah. By this he required all the forces in the Territory to "hold themselves in readiness to march at a moment's notice to repel any and all such invasion," and established martial law from its date throughout the Territory. These proved to be no idle threats. Forts Bridger and Supply were vacated and burnt down by the Mormons, to deprive our troops of a shelter after their long and fatiguing march. Orders were issued by Daniel H. Wells, styling himself "Lieutenant-General, Nauvoo Legion," to stampede the animals of the United States troops on their march, to set fire to their trains, to burn the grass and the whole country before them and on their flanks, to keep them from sleeping by night surprises, and to blockade the road by felling trees, and destroying the fords of rivers, &c., &c., &c.

These orders were promptly and effectually obeyed. On the 4th of October, 1857, the Mormons captured and burned, on Green river, three of our supply trains, consisting of seventy-five wagons loaded with provisions and tents for the army, and carried away several hundred animals. This diminished the supply of provisions so materially that General Johnston was obliged to reduce the ration, and even with this pre-

caution there was only sufficient left to subsist the troops until the first of June.

Our little army behaved admirably in their encampment at Fort Bridger under these trying privations. In the midst of the mountains, in a dreary, unsettled, and inhospitable region, more than a thousand miles from home, they passed the severe and inclement winter without a murmur. They looked forward with confidence for relief from their country in due season, and in this they were not disappointed.

The Secretary of War employed all his energies to forward them the necessary supplies, and to muster and send such a military force to Utah as would render resistance on the part of the Mormons hopeless, and thus terminate the war without the effusion of blood. In his efforts he was efficiently sustained by Congress. They granted appropriations sufficient to cover the deficiency thus necessarily created, and also provided for raising two regiments of volunteers "for the purpose of quelling disturbances in the Territory of Utah, for the protection of supply and emigrant trains, and the suppression of Indian hostilities on the frontiers." Happily, there was no occasion to call these regiments into service. If there had been, I should have felt serious embarrassment in selecting them, so great was the number of our brave and patriotic citizens anxious to serve their country in this distant and apparently dangerous expedition. Thus it has ever been, and thus may it ever be!

The wisdom and economy of sending sufficient reinforcements to Utah are established not only by the event, but in the opinion of those who, from their position and opportunities, are the most capable of forming a correct judgment. General Johnston, the commander of the forces, in addressing the Secretary of War from Fort Bridger, under date of October 18, 1857, expresses the opinion that "unless a large force is sent here, from the nature of the country, a protracted war on their [the Mormons] part is inevitable." This he considered necessary, to terminate the war "speedily and more economically than if attempted by insufficient means."

In the mean time it was my anxious desire that the Mormons should yield obedience to the Constitution and the laws, with-

out rendering it necessary to resort to military force. To aid in accomplishing this object I deemed it advisable, in April last, to despatch two distinguished citizens of the United States, Messrs. Powell and McCulloch, to Utah. They bore with them a proclamation addressed by myself to the inhabitants of Utah, dated on the 6th day of that month, warning them of their true condition, and how hopeless it was on their part to persist in rebellion against the United States, and offering all those who should submit to the laws a full pardon for their past seditions and treasons. At the same time I assured those who should persist in rebellion against the United States that they must expect no further lenity, but look to be rigorously dealt with, according to their deserts. The instructions to these agents, as well as a copy of the proclamation and their reports, are herewith submitted. It will be seen by their report of the 3d of July last that they have fully confirmed the opinion expressed by General Johnston in the previous October as to the necessity of sending reinforcements to Utah. In this they state that they "are firmly impressed with the belief that the presence of the army here, and the large additional force that had been ordered to this Territory, were the chief inducements that caused the Mormons to abandon the idea of resisting the authority of the United States. A less decisive policy would probably have resulted in a long, bloody, and expensive war."

These gentlemen conducted themselves to my entire satisfaction, and rendered useful services in executing the humane intentions of the government.

It also affords me great satisfaction to state that Governor Cumming has performed his duty in an able and conciliatory manner, and with the happiest effect. I cannot, in this connection, refrain from mentioning the valuable services of Colonel Thomas L. Kane, who, from motives of pure benevolence, and without any official character or pecuniary compensation, visited Utah during the last inclement winter for the purpose of contributing to the pacification of the Territory.

I am happy to inform you that the governor and other civil officers of Utah are now performing their appropriate functions without resistance. The authority of the Constitution

and the laws has been fully restored, and peace prevails throughout the Territory.

A portion of the troops sent to Utah are now encamped in Cedar valley, forty-four miles southwest of Salt Lake city, and the remainder have been ordered to Oregon to suppress Indian hostilities.

The march of the army to Salt Lake city, through the Indian Territory, has had a powerful effect in restraining the hostile feelings against the United States which existed among the Indians in that region, and in securing emigrants to the Far West against their depredations. This will also be the means of establishing military posts and promoting settlements along the route.

I recommend that the benefits of our land laws and pre-emption system be extended to the people of Utah, by the establishment of a land office in that Territory.

I have occasion, also, to congratulate you on the result of our negotiations with China.

You were informed by my last annual message that our minister had been instructed to occupy a neutral position in the hostilities conducted by Great Britain and France against Canton. He was, however, at the same time, directed to co-operate cordially with the British and French ministers in all peaceful measures to secure by treaty those just concessions to foreign commerce which the nations of the world had a right to demand. It was impossible for me to proceed further than this on my own authority, without usurping the war-making power, which, under the Constitution, belongs exclusively to Congress.

Besides, after a careful examination of the nature and extent of our grievances, I did not believe they were of such a pressing and aggravated character as would have justified Congress in declaring war against the Chinese empire, without first making another earnest attempt to adjust them by peaceful negotiation. I was the more inclined to this opinion, because of the severe chastisement which had then but recently been inflicted upon the Chinese by our squadron in the capture and destruction of the Barrier forts to avenge an alleged insult to our flag.

The event has proved the wisdom of our neutrality. Our minister has executed his instructions with eminent skill and ability. In conjunction with the Russian plenipotentiary, he has peacefully, but effectually, co-operated with the English and French plenipotentiaries; and each of the four powers has concluded a separate treaty with China, of a highly satisfactory character. The treaty concluded by our own plenipotentiary will immediately be submitted to the Senate.

I am happy to announce that, through the energetic yet conciliatory efforts of our consul general in Japan, a new treaty has been concluded with that empire, which may be expected materially to augment our trade and intercourse in that quarter, and remove from our countrymen the disabilities which have heretofore been imposed upon the exercise of their religion. The treaty shall be submitted to the Senate for approval without delay.

It is my earnest desire that every misunderstanding with the government of Great Britain should be amicably and speedily adjusted. It has been the misfortune of both countries, almost ever since the period of the revolution, to have been annoyed by a succession of irritating and dangerous questions, threatening their friendly relations. This has partially prevented the full development of those feelings of mutual friendship between the people of the two countries, so natural in themselves and so conducive to their common interest. Any serious interruption of the commerce between the United States and Great Britain would be equally injurious to both. In fact, no two nations have ever existed on the face of the earth which could do each other so much good or so much harm.

Entertaining these sentiments, I am gratified to inform you that the long-pending controversy between the two governments, in relation to the question of visitation and search, has been amicably adjusted. The claim, on the part of Great Britain, forcibly to visit American vessels on the high seas in time of peace could not be sustained under the law of nations, and it had been overruled by her own most eminent jurists. This question was recently brought to an issue by the repeated acts of British cruisers, in boarding and searching our mer-

chant vessels in the Gulf of Mexico and the adjacent seas. These acts were the more injurious and annoying, as these waters are traversed by a large portion of the commerce and navigation of the United States, and their free and unrestricted use is essential to the security of the coastwise trade between the different States of the Union. Such vexatious interruptions could not fail to excite the feelings of the country, and to require the interposition of the Government. Remonstrances were addressed to the British government against these violations of our rights of sovereignty, and a naval force was at the same time ordered to the Cuban waters, with directions "to protect all vessels of the United States on the high seas from search or detention by the vessels-of-war of any other nation." These measures received the unqualified and even enthusiastic approbation of the American people. Most fortunately, however, no collision took place, and the British government promptly avowed its recognition of the principles of international law upon this subject as laid down by the government of the United States in the note of the Secretary of State to the British minister at Washington, of April 10, 1858, which secure the vessels of the United States upon the high seas from visitation or search in time of peace, under any circumstances whatever. The claim has been abandoned in a manner reflecting honor on the British government, and evincing a just regard for the law of nations, and cannot fail to strengthen the amicable relations between the two countries.

The British government, at the same time, proposed to the United States that some mode should be adopted, by mutual arrangement between the two countries, of a character which may be found effective without being offensive, for verifying the nationality of vessels suspected on good grounds of carrying false colors. They have also invited the United States to take the initiative, and propose measures for this purpose. Whilst declining to assume so grave a responsibility, the Secretary of State has informed the British government that we are ready to receive any proposals which they may feel disposed to offer, having this object in view, and to consider them in an amicable spirit. A strong opinion is, however, expressed, that the occasional abuse of the flag of any nation is an evil

far less to be deprecated than would be the establishment of any regulations which might be incompatible with the freedom of the seas. This government has yet received no communication specifying the manner in which the British government would propose to carry out their suggestion, and I am inclined to believe that no plan which can be devised will be free from grave embarrassments. Still, I shall form no decided opinion on the subject until I shall have carefully and in the best spirit examined any proposals which they may think proper to make.

I am truly sorry I cannot also inform you that the complications between Great Britain and the United States arising out of the Clayton and Bulwer treaty of April, 1850, have been finally adjusted.

At the commencement of your last session I had reason to hope that, emancipating themselves from further unavailing discussions, the two governments would proceed to settle the Central American questions in a practical manner, alike honorable and satisfactory to both ; and this hope I have not yet abandoned. In my last annual message I stated that overtures had been made by the British government for this purpose in a friendly spirit, which I cordially reciprocated. Their proposal was, to withdraw these questions from direct negotiation between the two governments ; but to accomplish the same object by a negotiation between the British government and each of the Central American republics whose territorial interests are immediately involved. The settlement was to be made in accordance with the general tenor of the interpretation placed upon the Clayton and Bulwer treaty by the United States, with certain modifications. As negotiations are still pending upon this basis, it would not be proper for me now to communicate their present condition. A final settlement of these questions is greatly to be desired, as this would wipe out the last remaining subject of dispute between the two countries.

Our relations with the great empires of France and Russia, as well as with all other governments on the continent of Europe, except that of Spain, continue to be of the most friendly character.

With Spain our relations remain in an unsatisfactory condition. In my message of December last I informed you that our envoy extraordinary and minister plenipotentiary to Madrid had asked for his recall ; and it was my purpose to send out a new minister to that court, with special instructions on all questions pending between the two governments, and with a determination to have them speedily and amicably adjusted, if that were possible. This purpose has been hitherto defeated by causes which I need not enumerate.

The mission to Spain has been intrusted to a distinguished citizen of Kentucky, who will proceed to Madrid without delay, and make another and a final attempt to obtain justice from that government.

Spanish officials, under the direct control of the captain general of Cuba, have insulted our national flag, and in repeated instances have, from time to time, inflicted injuries on the persons and property of our citizens. These have given birth to numerous claims against the Spanish government, the merits of which have been ably discussed for a series of years by our successive diplomatic representatives. Notwithstanding this, we have not arrived at a practical result in any single instance, unless we may except the case of the Black Warrior, under the late administration ; and that presented an outrage of such a character as would have justified an immediate resort to war. All our attempts to obtain redress have been baffled and defeated. The frequent and oft-recurring changes in the Spanish ministry have been employed as reasons for delay. We have been compelled to wait, again and again, until the new minister shall have had time to investigate the justice of our demands.

Even what have been denominated " the Cuban claims," in which more than a hundred of our citizens are directly interested, have furnished no exception. These claims were for the refunding of duties unjustly exacted from American vessels at different custom-houses in Cuba so long ago as the year 1844. The principles upon which they rest are so manifestly equitable and just, that, after a period of nearly ten years, in 1854 they were recognized by the Spanish government. Proceedings were afterwards instituted to ascertain their amount,

and this was finally fixed according to their own statement (with which we were satisfied) at the sum of one hundred and twenty-eight thousand six hundred and thirty-five dollars and fifty-four cents. Just at the moment, after a delay of fourteen years, when we had reason to expect that this sum would be repaid with interest, we have received a proposal offering to refund one-third of that amount, (forty-two thousand eight hundred and seventy-eight dollars and forty-one cents;) but without interest, if we would accept this in full satisfaction. The offer is also accompanied by a declaration that this indemnification is not founded on any reason of strict justice, but is made as a special favor.

One alleged cause for procrastination in the examination and adjustment of our claims arises from an obstacle which it is the duty of the Spanish government to remove. Whilst the captain general of Cuba is invested with general despotic authority in the government of that island, the power is withheld from him to examine and redress wrongs committed by officials under his control on citizens of the United States. Instead of making our complaints directly to him at Havana, we are obliged to present them through our minister at Madrid. These are then referred back to the captain general for information, and much time is thus consumed in preliminary investigations and correspondence between Madrid and Cuba before the Spanish government will consent to proceed to negotiation. Many of the difficulties between the two governments would be obviated, and a long train of negotiation avoided, if the captain general were invested with authority to settle questions of easy solution on the spot, where all the facts are fresh, and could be promptly and satisfactorily ascertained. We have hitherto in vain urged upon the Spanish government to confer this power upon the captain general, and our minister to Spain will again be instructed to urge this subject on their notice. In this respect we occupy a different position from the powers of Europe. Cuba is almost within sight of our shores; our commerce with it is far greater than that of any other nation, including Spain itself, and our citizens are in habits of daily and extended personal intercourse with every part of the island. It is, therefore, a great griev-

ance that when any difficulty occurs, no matter how unimportant, which might be readily settled at the moment, we should be obliged to resort to Madrid, especially when the very first step to be taken there is to refer it back to Cuba.

The truth is, that Cuba, in its existing colonial condition, is a constant source of injury and annoyance to the American people. It is the only spot in the civilized world where the African slave trade is tolerated ; and we are bound by treaty with Great Britain to maintain a naval force on the coast of Africa, at much expense both of life and treasure, solely for the purpose of arresting slavers bound to that island. The late serious difficulties between the United States and Great Britain respecting the right of search, now so happily terminated, could never have arisen if Cuba had not afforded a market for slaves. As long as this market shall remain open, there can be no hope for the civilization of benighted Africa. Whilst the demand for slaves continues in Cuba, wars will be waged among the petty and barbarous chiefs in Africa for the purpose of seizing subjects to supply this trade. In such a condition of affairs, it is impossible that the light of civilization and religion can ever penetrate these dark abodes.

It has been made known to the world by my predecessors that the United States have, on several occasions, endeavored to acquire Cuba from Spain by honorable negotiation. If this were accomplished, the last relic of the African slave trade would instantly disappear. We would not, if we could, acquire Cuba in any other manner. This is due to our national character. All the territory which we have acquired since the origin of the government has been by fair purchase from France, Spain, and Mexico, or by the free and voluntary act of the independent State of Texas in blending her destinies with our own. This course we shall ever pursue, unless circumstances should occur, which we do not now anticipate, rendering a departure from it clearly justifiable, under the imperative and overruling law of self-preservation.

The island of Cuba, from its geographical position, commands the mouth of the Mississippi, and the immense and annually increasing trade, foreign and coastwise, from the valley of that noble river, now embracing half the sovereign

States of the Union. With that island under the dominion of a distant foreign power, this trade, of vital importance to these States, is exposed to the danger of being destroyed in time of war, and it has hitherto been subjected to perpetual injury and annoyance in time of peace. Our relations with Spain, which ought to be of the most friendly character, must always be placed in jeopardy, whilst the existing colonial government over the island shall remain in its present condition.

Whilst the possession of the island would be of vast importance to the United States, its value to Spain is, comparatively, unimportant. Such was the relative situation of the parties when the great Napoleon transferred Louisiana to the United States. Jealous, as he ever was, of the national honor and interests of France, no person throughout the world has imputed blame to him for accepting a pecuniary equivalent for this cession.

The publicity which has been given to our former negotiations upon this subject, and the large appropriation which may be required to effect the purpose, render it expedient, before making another attempt to renew the negotiation, that I should lay the whole subject before Congress. This is especially necessary, as it may become indispensable to success, that I should be intrusted with the means of making an advance to the Spanish government immediately after the signing of the treaty, without awaiting the ratification of it by the Senate. I am encouraged to make this suggestion by the example of Mr. Jefferson, previous to the purchase of Louisiana from France, and by that of Mr. Polk, in view of the acquisition of territory from Mexico. I refer the whole subject to Congress, and commend it to their careful consideration.

I repeat the recommendation made in my message of December last in favor of an appropriation "to be paid to the Spanish government for the purpose of distribution among the claimants in the *Amistad* case." President Polk first made a similar recommendation in December, 1847, and it was repeated by my immediate predecessor in December, 1853. I entertain no doubt that indemnity is fairly due to these claimants under our treaty with Spain of October 27, 1795; and whilst demanding justice we ought to do justice. An appro-

priation promptly made for this purpose could not fail to exert a favorable influence on our negotiations with Spain.

Our position in relation to the independent States south of us on this continent, and especially those within the limits of North America, is of a peculiar character. The northern boundary of Mexico is coincident with our own southern boundary from ocean to ocean, and we must necessarily feel a deep interest in all that concerns the well being and the fate of so near a neighbor. We have always cherished the kindest wishes for the success of that republic, and have indulged the hope that it might at last, after all its trials, enjoy peace and prosperity under a free and stable government. We have never hitherto interfered, directly or indirectly, with its internal affairs, and it is a duty which we owe to ourselves to protect the integrity of its territory against the hostile interference of any other power. Our geographical position, our direct interest in all that concerns Mexico, and our well-settled policy in regard to the North American continent, render this an indispensable duty.

Mexico has been in a state of constant revolution almost ever since it achieved its independence. One military leader after another has usurped the government in rapid succession ; and the various constitutions from time to time adopted have been set at naught almost as soon as they were proclaimed. The successive governments have afforded no adequate protection, either to Mexican citizens or foreign residents, against lawless violence. Heretofore, a seizure of the capital by a military chieftain has been generally followed by at least the nominal submission of the country to his rule for a brief period ; but not so at the present crisis of Mexican affairs. A civil war has been raging for some time throughout the republic between the central government at the city of Mexico, which has endeavored to subvert the constitution last framed by military power, and those who maintain the authority of that constitution. The antagonist parties each hold possession of different States of the republic, and the fortunes of the war are constantly changing. Meanwhile the most reprehensible means have been employed by both parties to extort money from foreigners, as well as natives, to carry on this ruinous

contest. The truth is, that this fine country, blessed with a productive soil and a benign climate, has been reduced by civil dissension to a condition of almost hopeless anarchy and imbecility. It would be vain for this government to attempt to enforce payment in money of the claims of American citizens, now amounting to more than ten million dollars, against Mexico, because she is destitute of all pecuniary means to satisfy these demands.

Our late minister was furnished with ample powers and instructions for the adjustment of all pending questions with the central government of Mexico, and he performed his duty with zeal and ability. The claims of our citizens, some of them arising out of the violation of an express provision of the treaty of Guadalupe Hidalgo, and others from gross injuries to persons as well as property, have remained undressed, and even unnoticed. Remonstrances against these grievances have been addressed, without effect, to that government. Meantime, in various parts of the republic, instances have been numerous of the murder, imprisonment, and plunder of our citizens by different parties claiming and exercising a local jurisdiction; but the central government, although repeatedly urged thereto, have made no effort either to punish the authors of these outrages or to prevent their recurrence. No American citizen can now visit Mexico on lawful business without imminent danger to his person and property. There is no adequate protection to either; and in this respect our treaty with that republic is almost a dead letter.

This state of affairs was brought to a crisis in May last by the promulgation of a decree levying a contribution *pro rata* upon all the capital in the republic, between certain specified amounts, whether held by Mexicans or foreigners. Mr. Forsyth, regarding this decree in the light of a "forced loan," formally protested against its application to his countrymen, and advised them not to pay the contribution, but to suffer it to be forcibly exacted. Acting upon this advice an American citizen refused to pay the contribution, and his property was seized by armed men to satisfy the amount. Not content with this, the government proceeded still further and issued a decree banishing him from the country. Our minister immedi-

ately notified them that, if this decree should be carried into execution, he would feel it to be his duty to adopt "the most decided measures that belong to the powers and obligations of the representative office." Notwithstanding this warning, the banishment was enforced, and Mr. Forsyth promptly announced to the government the suspension of the political relations of his legation with them, until the pleasure of his own government should be ascertained.

This government did not regard the contribution imposed by the decree of the 15th May last to be in strictness a "forced loan," and as such prohibited by the 10th article of the treaty of 1826 between Great Britain and Mexico, to the benefits of which American citizens are entitled by treaty; yet the imposition of the contribution upon foreigners was considered an unjust and oppressive measure. Besides, internal factions in other parts of the republic were at the same time levying similar exactions upon the property of our citizens and interrupting their commerce. There had been an entire failure on the part of our minister to secure redress for the wrongs which our citizens had endured, notwithstanding his persevering efforts. And from the temper manifested by the Mexican government he had repeatedly assured us that no favorable change could be expected until the United States should "give striking evidence of their will and power to protect their citizens," and that "severe chastening is the only earthly remedy for our grievances." From this statement of facts, it would have been worse than idle to direct Mr. Forsyth to retrace his steps and resume diplomatic relations with that government; and it was therefore deemed proper to sanction his withdrawal of the legation from the city of Mexico.

Abundant cause now undoubtedly exists for a resort to hostilities against the government still holding possession of the capital. Should they succeed in subduing the constitutional forces all reasonable hope will then have expired of a peaceful settlement of our difficulties.

On the other hand, should the constitutional party prevail and their authority be established over the republic, there is reason to hope that they will be animated by a less unfriendly spirit, and may grant that redress to American citizens which

justice requires, so far as they may possess the means. But for this expectation I should at once have recommended to Congress to grant the necessary power to the President to take possession of a sufficient portion of the remote and unsettled territory of Mexico, to be held in pledge until our injuries shall be redressed and our just demands be satisfied. We have already exhausted every milder means of obtaining justice. In such a case this remedy of reprisals is recognized by the law of nations, not only as just in itself, but as a means of preventing actual war.

But there is another view of our relations with Mexico, arising from the unhappy condition of affairs along our southwestern frontier, which demands immediate action. In that remote region, where there are but few white inhabitants, large bands of hostile and predatory Indians roam promiscuously over the Mexican States of Chihuahua and Sonora, and our adjoining Territories. The local governments of these States are perfectly helpless, and are kept in a state of constant alarm by the Indians. They have not the power, if they possessed the will, even to restrain lawless Mexicans from passing the border and committing depredations on our remote settlers. A state of anarchy and violence prevails throughout that distant frontier. The laws are a dead letter, and life and property wholly insecure. For this reason the settlement of Arizona is arrested, whilst it is of great importance that a chain of inhabitants should extend all along its southern border, sufficient for their own protection and that of the United States mail passing to and from California. Well-founded apprehensions are now entertained, that the Indians, and wandering Mexicans equally lawless, may break up the important stage and postal communication recently established between our Atlantic and Pacific possessions. This passes very near to the Mexican boundary throughout the whole length of Arizona. I can imagine no possible remedy for these evils, and no mode of restoring law and order on that remote and unsettled frontier, but for the government of the United States to assume a temporary protectorate over the northern portions of Chihuahua and Sonora, and to establish military posts within the same—and this I earnestly recommend to Congress.

This protection may be withdrawn as soon as local governments shall be established in these Mexican States, capable of performing their duties to the United States, restraining the lawless, and preserving peace along the border.

I do not doubt that this measure will be viewed in a friendly spirit by the governments and people of Chihuahua and Sonora, as it will prove equally effectual for the protection of their citizens on that remote and lawless frontier, as for citizens of the United States.

And, in this connection, permit me to recall your attention to the condition of Arizona. The population of that Territory, numbering, as is alleged, more than ten thousand souls, are practically without a government, without laws, and without any regular administration of justice. Murder and other crimes are committed with impunity. This state of things calls loudly for redress, and I therefore repeat my recommendation for the establishment of a territorial government over Arizona.

The political condition of the narrow isthmus of Central America, through which transit routes pass between the Atlantic and Pacific oceans, presents a subject of deep interest to all commercial nations. It is over these transits that a large proportion of the trade and travel between the European and Asiatic continents is destined to pass. To the United States these routes are of incalculable importance as a means of communication between their Atlantic and Pacific possessions. The latter now extend throughout seventeen degrees of latitude on the Pacific coast, embracing the important State of California and the flourishing Territories of Oregon and Washington. All commercial nations, therefore, have a deep and direct interest that these communications shall be rendered secure from interruption. If an arm of the sea connecting the two oceans penetrated through Nicaragua and Costa Rica, it could not be pretended that these States would have the right to arrest or retard its navigation, to the injury of other nations. The transit by land over this narrow isthmus occupies nearly the same position. It is a highway in which they themselves have little interest when compared with the vast interests of the rest of the world. Whilst their rights of sov-

ereignty ought to be respected, it is the duty of other nations to require that this important passage shall not be interrupted by the civil wars and revolutionary outbreaks which have so frequently occurred in that region. The stake is too important to be left at the mercy of rival companies claiming to hold conflicting contracts with Nicaragua. The commerce of other nations is not to stand still and await the adjustment of such petty controversies. The government of the United States expect no more than this, and they will not be satisfied with less. They would not, if they could, derive any advantage from the Nicaragua transit not common to the rest of the world. Its neutrality and protection for the common use of all nations is their only object. They have no objection that Nicaragua shall demand and receive a fair compensation from the companies and individuals who may traverse the route ; but they insist that it shall never hereafter be closed by an arbitrary decree of that government. If disputes arise between it and those with whom they may have entered into contracts, these must be adjusted by some fair tribunal provided for the purpose, and the route must not be closed pending the controversy. This is our whole policy, and it cannot fail to be acceptable to other nations.

All these difficulties might be avoided, if, consistently with the good faith of Nicaragua, the use of this transit could be thrown open to general competition ; providing at the same time for the payment of a reasonable rate to the Nicaraguan government on passengers and freight.

In August, 1852, the Accessory Transit Company made its first interoceanic trip over the Nicaraguan route, and continued in successful operation with great advantage to the public, until the 18th February, 1856, when it was closed, and the grant to this company as well as its charter, was summarily and arbitrarily revoked by the government of President Rivas. Previous to this date, however, in 1854, serious disputes concerning the settlement of their accounts had arisen between the company and the government, threatening the interruption of the route at any moment. These the United States in vain endeavored to compose. It would be useless to narrate the various proceedings which took place between the parties

up till the time when the transit was discontinued. Suffice it to say that, since February, 1856, it has remained closed, greatly to the prejudice of citizens of the United States. Since that time the competition has ceased between the rival routes of Panama and Nicaragua, and in consequence thereof, an unjust and unreasonable amount has been exacted from our citizens for their passage to and from California.

A treaty was signed on the 16th day of November, 1857, by the Secretary of State and minister of Nicaragua, under the stipulations of which the use and protection of the transit route would have been secured not only to the United States, but equally to all other nations. How, and on what pretext this treaty has failed to receive the ratification of the Nicaraguan government, will appear by the papers herewith communicated from the State Department. The principal objection seems to have been to the provision authorizing the United States to employ force to keep the route open, in case Nicaragua should fail to perform her duty in this respect. From the feebleness of that republic, its frequent changes of government, and its constant internal dissensions this had become a most important stipulation, and one essentially necessary not only for the security of the route, but for the safety of American citizens passing and repassing to and from our Pacific possessions. Were such a stipulation embraced in a treaty between the United States and Nicaragua, the knowledge of this fact would of itself most probably prevent hostile parties from committing aggressions on the route, and render our actual interference for its protection unnecessary.

The Executive government of this country, in its intercourse with foreign nations, is limited to the employment of diplomacy alone. When this fails it can proceed no further. It cannot legitimately resort to force without the direct authority of Congress, except in resisting and repelling hostile attacks. It would have no authority to enter the territories of Nicaragua, even to prevent the destruction of the transit, and protect the lives and property of our own citizens on their passage. It is true, that on a sudden emergency of this character, the President would direct any armed force in the

vicinity to march to their relief ; but in doing this he would act upon his own responsibility.

Under these circumstances, I earnestly recommend to Congress the passage of an act authorizing the President, under such restrictions as they may deem proper, to employ the land and naval forces of the United States in preventing the transit from being obstructed or closed by lawless violence, and in protecting the lives and property of American citizens travelling thereupon, requiring at the same time that these forces shall be withdrawn the moment the danger shall have passed away. Without such a provision our citizens will be constantly exposed to interruption in their progress, and to lawless violence.

A similar necessity exists for the passage of such an act for the protection of the Panama and Tehuantepec routes.

In reference to the Panama route, the United States, by their existing treaty with New Granada, expressly guaranty the neutrality of the isthmus, "with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists."

In regard to the Tehuantepec route, which has been recently opened under the most favorable auspices, our treaty with Mexico of the 30th December, 1853, secures to the citizens of the United States a right of transit over it for their persons and merchandise, and stipulates that neither government shall "interpose any obstacle" thereto. It also concedes to the United States the "right to transport across the isthmus, in closed bags, the mails of the United States not intended for distribution along the line of the communication ; also, the effects of the United States government and its citizens which may be intended for transit, and not for distribution on the isthmus, free of custom-house or other charges by the Mexican government."

These treaty stipulations with New Granada and Mexico, in addition to the considerations applicable to the Nicaragua route, seem to require legislation for the purpose of carrying them into effect.

The injuries which have been inflicted upon our citizens in Costa Rica and Nicaragua, during the last two or three years,

have received the prompt attention of this government. Some of these injuries were of the most aggravated character. The transaction at Virgin Bay, in April, 1856, when a company of unarmed Americans, who were in no way connected with any belligerent conduct or party, were fired upon by the troops of Costa Rica, and numbers of them killed and wounded, was brought to the knowledge of Congress by my predecessor soon after its occurrence, and was also presented to the government of Costa Rica for that immediate investigation and redress which the nature of the case demanded. A similar course was pursued with reference to other outrages in these countries, some of which were hardly less aggravated in their character than the transaction at Virgin Bay. At the time, however, when our present minister to Nicaragua was appointed, in December, 1857, no redress had been obtained for any of these wrongs, and no reply even had been received to the demands which had been made by this government upon that of Costa Rica more than a year before. Our minister was instructed, therefore, to lose no time in expressing to those governments the deep regret with which the President had witnessed this inattention to the just claims of the United States, and in demanding their prompt and satisfactory adjustment. Unless this demand shall be complied with at an early day, it will only remain for this government to adopt such other measures as may be necessary, in order to obtain for itself that justice which it has in vain attempted to secure by peaceful means from the governments of Nicaragua and Costa Rica. While it has shown, and will continue to show, the most sincere regard for the rights and honor of these republics, it cannot permit this regard to be met by an utter neglect on their part, of what is due to the government and citizens of the United States.

Against New Granada we have long standing causes of complaint, arising out of the unsatisfied claims of our citizens upon that republic; and to these have been more recently added the outrages committed upon our citizens at Panama in April, 1856. A treaty for the adjustment of these difficulties was concluded by the Secretary of State and the minister of New Granada, in September, 1857, which contained just and ac-

ceptable provisions for that purpose. This treaty was transmitted to Bogota, and was ratified by the government of New Granada, but with certain amendments. It was not, however, returned to this city until after the close of the last session of the Senate. It will be immediately transmitted to that body for their advice and consent ; and should this be obtained, it will remove all our existing causes of complaint against New Granada on the subject of claims.

Questions have arisen between the two governments, as to the right of New Granada to levy a tonnage duty upon the vessels of the United States in its ports of the isthmus, and to levy a passenger tax upon our citizens arriving in that country, whether with a design to remain there or to pass from ocean to ocean by the transit route ; and also a tax upon the mail of the United States transported over the Panama railroad. The government of New Granada has been informed, that the United States would consider the collection of either of these taxes, as an act in violation of the treaty between the two countries, and as such would be resisted by the United States. At the same time, we are prepared to discuss these questions in a spirit of amity and justice, and with a sincere desire to adjust them in a satisfactory manner. A negotiation for that purpose has already been commenced. No effort has recently been made to collect these taxes, nor is any anticipated under present circumstances.

With the empire of Brazil our relations are of the most friendly character. The productions of the two countries, and especially those of an agricultural nature, are such as to invite extensive mutual exchanges. A large quantity of American flour is consumed in Brazil, whilst more than treble the amount in value of Brazilian coffee is consumed in the United States. Whilst this is the case, a heavy duty has been levied, until very recently, upon the importation of American flour into Brazil. I am gratified, however, to be able to inform you that in September last this has been reduced from \$1 32 to about forty-nine cents per barrel, and the duties on other articles of our production have been diminished in nearly the same proportion.

I regret to state that the government of Brazil still con-

tinues to levy an export duty of about 11 per cent. on coffee, notwithstanding this article is admitted free from duty in the United States. This is a heavy charge upon the consumers of coffee in our country, as we purchase half of the entire surplus crop of that article raised in Brazil. Our minister, under instructions, will reiterate his efforts to have this export duty removed ; and it is hoped that the enlightened government of the Emperor will adopt this wise, just, and equal policy. In that event, there is good reason to believe that the commerce between the two countries will greatly increase, much to the advantage of both.

The claims of our citizens against the government of Brazil are not in the aggregate, of very large amount ; but some of these rest upon plain principles of justice, and their settlement ought not to be longer delayed. A renewed and earnest, and I trust a successful effort will be made by our minister to procure their final adjustment.

On the 2d of June last, Congress passed a joint resolution authorizing the President "to adopt such measures and use such force as, in his judgment, may be necessary and advisable" "for the purpose of adjusting the differences between the United States and the republic of Paraguay, in connection with the attack on the United States steamer *Water Witch*, and with other measures referred to" in his annual message. And on the 12th of July following, they made an appropriation to defray the expenses and compensation of a commissioner to that republic, should the President deem it proper to make such an appointment.

In compliance with these enactments, I have appointed a commissioner, who has proceeded to Paraguay, with full powers and instructions to settle these differences in an amicable and peaceful manner, if this be practicable. His experience and discretion justify the hope that he may prove successful in convincing the Paraguayan government that it is due both to honor and justice, that they should voluntarily and promptly make atonement for the wrongs which they have committed against the United States, and indemnify our injured citizens whom they have forcibly despoiled of their property.

Should our commissioner prove unsuccessful, after a sincere and earnest effort to accomplish the object of his mission, then no alternative will remain but the employment of force to obtain "just satisfaction" from Paraguay. In view of this contingency, the Secretary of the Navy, under my direction, has fitted out and despatched a naval force, to rendezvous near Buenos Ayres, which, it is believed, will prove sufficient for the occasion. It is my earnest desire, however, that it may not be found necessary to resort to this last alternative.

When Congress met in December last, the business of the country had just been crushed by one of those periodical revulsions which are the inevitable consequence of our unsound and extravagant system of bank credits and inflated currency. With all the elements of national wealth in abundance, our manufactures were suspended, our useful public and private enterprises were arrested, and thousands of laborers were deprived of employment and reduced to want. Universal distress prevailed among the commercial, manufacturing, and mechanical classes. This revulsion was felt the more severely in the United States, because similar causes had produced the like deplorable effects throughout the commercial nations of Europe. All were experiencing sad reverses at the same moment. Our manufacturers everywhere suffered severely, not because of the recent reduction in the tariff of duties on imports, but because there was no demand at any price for their productions. The people were obliged to restrict themselves in their purchases, to articles of prime necessity. In the general prostration of business the iron manufacturers in different States probably suffered more than any other class, and much destitution was the inevitable consequence among the great number of workmen who had been employed in this useful branch of industry. There could be no supply where there was no demand. To present an example, there could be no demand for railroad iron, after our magnificent system of railroads, extending its benefits to every portion of the Union, had been brought to a dead pause. The same consequences have resulted from similar causes to many other branches of useful manufactures. It is self-evident that

where there is no ability to purchase manufactured articles, these cannot be sold, and consequently must cease to be produced.

No government, and especially a government of such limited powers as that of the United States, could have prevented the late revulsion. The whole commercial world seemed for years to have been rushing to this catastrophe. The same ruinous consequences would have followed in the United States, whether the duties upon foreign imports had remained as they were under the tariff of 1846, or had been raised to a much higher standard. The tariff of 1857 had no agency in the result. The general causes existing throughout the world, could not have been controlled by the legislation of any particular country.

The periodical revulsions which have existed in our past history, must continue to return at intervals, so long as our present unbounded system of bank credits shall prevail. They will, however, probably be the less severe in future ; because it is not to be expected, at least for many years to come, that the commercial nations of Europe, with whose interests our own are so materially involved, will expose themselves to similar calamities. But this subject was treated so much at large in my last annual message that I shall not now pursue it further. Still, I respectfully renew the recommendation in favor of the passage of a uniform bankrupt law, applicable to banking institutions. This is all the direct power over the subject which, I believe, the federal government possesses. Such a law would mitigate, though it might not prevent the evil. The instinct of self-preservation might produce a wholesome restraint upon their banking business, if they knew in advance that a suspension of specie payments would inevitably produce their civil death.

But the effects of the revulsion are now slowly but surely passing away. The energy and enterprise of our citizens with our unbounded resources, will, within the period of another year, restore a state of wholesome industry and trade. Capital has again accumulated in our large cities. The rate of interest is there very low. Confidence is gradually reviving, and so soon as it is discovered that this capital can be profit-

ably employed in commercial and manufacturing enterprises, and in the construction of railroads and other works of public and private improvement, prosperity will again smile throughout the land. It is vain, however, to disguise the fact from ourselves, that a speculative inflation of our currency, without a corresponding inflation in other countries whose manufactures come into competition with our own, must ever produce disastrous results to our domestic manufactures. No tariff short of absolute prohibition can prevent these evil consequences.

In connection with this subject, it is proper to refer to our financial condition. The same causes which have produced pecuniary distress throughout the country, have so reduced the amount of imports from foreign countries, that the revenue has proved inadequate to meet the necessary expenses of the government. To supply the deficiency, Congress, by the act of December 23, 1857, authorized the issue of \$20,000,000 of Treasury notes; and this proving inadequate, they authorized, by the act of June 14, 1858, a loan of \$20,000,000 "to be applied to the payment of appropriations made by law."

No statesman would advise that we should go on increasing the national debt to meet the ordinary expenses of the government. This would be a most ruinous policy. In case of war our credit must be our chief resource, at least for the first year, and this would be greatly impaired by having contracted a large debt in time of peace. It is our true policy to increase our revenue so as to equal our expenditures. It would be ruinous to continue to borrow. Besides it may be proper to observe that the incidental protection thus afforded by a revenue tariff would at the present moment, to some extent, increase the confidence of the manufacturing interests, and give a fresh impulse to our reviving business. To this surely no person will object.

In regard to the mode of assessing and collecting duties under a strictly revenue tariff, I have long entertained and often expressed the opinion that sound policy requires this should be done by specific duties, in cases to which these can be properly applied. They are well adapted to commodities which are usually sold by weight or by measure, and which

from their nature, are of equal or of nearly equal value. Such, for example, are the articles of iron of different classes, raw sugar, and foreign wines and spirits.

In my deliberate judgment, specific duties are the best, if not the only means of securing the revenue against false and fraudulent invoices, and such has been the practice adopted for this purpose by other commercial nations. Besides, specific duties would afford to the American manufacturer the incidental advantages to which he is fairly entitled under a revenue tariff. The present system is a sliding scale to his disadvantage. Under it, when prices are high and business prosperous, the duties rise in amount when he least requires their aid. On the contrary, when prices fall and he is struggling against adversity, the duties are diminished in the same proportion, greatly to his injury.

Neither would there be danger that a higher rate of duty than that intended by Congress, could be levied in the form of specific duties. It would be easy to ascertain the average value of any imported article for a series of years ; and, instead of subjecting it to an *ad valorem* duty at a certain rate per centum, to substitute in its place an equivalent specific duty.

By such an arrangement the consumer would not be injured. It is true, he might have to pay a little more duty on a given article in one year ; but if so, he would pay a little less in another, and in a series of years these would counterbalance each other, and amount to the same thing so far as his interest is concerned. This inconvenience would be trifling when contrasted with the additional security thus afforded against frauds upon the revenue, in which every consumer is directly interested.

I have thrown out these suggestions as the fruit of my own observation, to which Congress, in their better judgment, will give such weight as they may justly deserve.

The report of the Secretary of the Treasury will explain in detail the operations of that department of the government. The receipts into the treasury from all sources during the fiscal year ending June 30, 1858, including the treasury notes authorized by the act of December 23, 1857, were seventy million two hundred and seventy-three thousand eight hundred

and sixty-nine dollars and fifty-nine cents, (\$70,273,869 59,) which amount, with the balance of seventeen million seven hundred and ten thousand one hundred and fourteen dollars and twenty-seven cents (\$17,710,114 27) remaining in the treasury at the commencement of the year, made an aggregate for the service of the year of eighty-seven million nine hundred and eighty-three thousand nine hundred and eighty-three dollars and eighty-six cents, (\$87,983,983 86.)

The public expenditures during the fiscal year ending June 30, 1858, amounted to eighty-one million five hundred and eighty-five thousand six hundred and sixty-seven dollars and seventy-six cents, (\$81,585,667 76,) of which nine million six hundred and eighty-four thousand five hundred and thirty-seven dollars and ninety-nine cents (\$9,684,537 99) were applied to the payment of the public debt, and the redemption of treasury notes with the interest thereon, leaving in the treasury on July 1, 1858, being the commencement of the present fiscal year, six million three hundred and ninety-eight thousand three hundred and sixteen dollars and ten cents, (\$6,398,316 10.)

The receipts into the treasury, during the first quarter of the present fiscal year, commencing the 1st of July, 1858, including one-half of the loan of twenty million dollars, with the premium upon it, authorized by the act of June 14, 1858, were twenty-five million two hundred and thirty thousand eight hundred and seventy-nine dollars and forty-six cents, (\$25,230,879 46,) and the estimated receipts for the remaining three quarters to the 30th of June, 1859, from ordinary sources, are thirty-eight million five hundred thousand dollars, (\$38,500,000,) making with the balance before stated an aggregate of seventy million one hundred and twenty-nine thousand one hundred and ninety-five dollars and fifty-six cents, (\$70,129,195 56.)

The expenditures, during the first quarter of the present fiscal year, were twenty-one million seven hundred and eight thousand one hundred and ninety-eight dollars and fifty-one cents, (\$21,708,198 51;) of which one million and ten thousand one hundred and forty-two dollars and thirty-seven cents (\$1,010,142 37) were applied to the payment of the public

debt and the redemption of treasury notes and the interest thereon. The estimated expenditures, during the remaining three quarters to June 30, 1859, are fifty-two million three hundred and fifty-seven thousand six hundred and ninety-eight dollars and forty-eight cents, (\$52,357,698 48,) making an aggregate of seventy-four million sixty-five thousand eight hundred and ninety-six dollars and ninety-nine cents, (\$74,065,896 99,) being an excess of expenditure, beyond the estimated receipts into the treasury from ordinary sources, during the fiscal year to the 30th of June, 1859, of three million nine hundred and thirty-six thousand seven hundred and one dollars and forty-three cents, (\$3,936,701 43.) Extraordinary means are placed by law within the command of the Secretary of the Treasury, by the reissue of treasury notes redeemed, and by negotiating the balance of the loan authorized by the act of June 14, 1858, to the extent of eleven millions of dollars, which, if realized during the present fiscal year, will leave a balance in the treasury, on the first day of July, 1859, of seven million sixty-three thousand two hundred and ninety-eight dollars and fifty-seven cents, (\$7,063,298 57.)

The estimated receipts during the next fiscal year ending June 30, 1860, are sixty-two millions of dollars, (\$62,000,000) which, with the above estimated balance of seven million sixty-three thousand two hundred and ninety-eight dollars and fifty-seven cents, (\$7,063,298 57,) make an aggregate for the service of the next fiscal year of sixty-nine million sixty-three thousand two hundred and ninety-eight dollars and fifty-seven cents, (\$69,063,298 57.) The estimated expenditures during the next fiscal year ending June 30, 1860, are seventy-three million one hundred and thirty-nine thousand one hundred and forty-seven dollars and forty-six cents, (\$73,139,147 46,) which leave a deficit of estimated means, compared with the estimated expenditures for that year, commencing on July 1, 1859, of four million seventy-five thousand eight hundred and forty-eight dollars and eighty-nine cents, (\$4,075,848 89.)

In addition to this sum, the Postmaster General will require from the treasury, for the service of the Post Office Department, three million eight hundred and thirty-eight thousand seven hundred and twenty-eight dollars, (\$3,838,728,) as ex-

plained in the report of the Secretary of the Treasury, which will increase the estimated deficit on June 30, 1860, to seven million nine hundred and fourteen thousand five hundred and seventy-six dollars and eighty-nine cents, (\$7,914,576 89.) To provide for the payment of this estimated deficiency, which will be increased by such appropriations as may be made by Congress, not estimated for in the report of the Treasury Department, as well as to provide for the gradual redemption, from year to year, of the out-standing treasury notes, the Secretary of the Treasury recommends such a revision of the present tariff as will raise the required amount. After what I have already said, I need scarcely add that I concur in the opinion expressed in his report—that the public debt should not be increased by an additional loan—and would therefore strongly urge upon Congress the duty of making, at their present session, the necessary provision for meeting these liabilities.

The public debt on July 1, 1858, the commencement of the present fiscal year, was \$25,155,977 66.

During the first quarter of the present year the sum of \$10,000,000 has been negotiated of the loan authorized by the act of June 14, 1858—making the present outstanding public debt, exclusive of treasury notes, \$35,155,977 66. There was, on the 1st of July, 1858, of treasury notes issued by authority of the act of December 23, 1857, unredeemed, the sum of \$19,754,800, making the amount of actual indebtedness at that date \$54,910,777 66. To this will be added \$10,000,000 during the present fiscal year—this being the remaining half of the loan of \$20,000,000 not yet negotiated.

The rapid increase of the public debt, and the necessity which exists for a modification of the tariff, to meet even the ordinary expenses of the government, ought to admonish us all, in our respective spheres of duty, to the practice of rigid economy. The objects of expenditure should be limited in number, as far as this may be practicable, and the appropriations necessary to carry them into effect ought to be disbursed under the strictest accountability. Enlightened economy does not consist in the refusal to appropriate money for constitutional purposes essential to the defence, progress, and pros-

perity of the republic, but in taking care that none of this money shall be wasted by mismanagement in its application to the objects designated by law.

Comparisons between the annual expenditure at the present time and what it was ten or twenty years ago are altogether fallacious. The rapid increase of our country in extent and population renders a corresponding increase of expenditure, to some extent, unavoidable. This is constantly creating new objects of expenditure and augmenting the amount required for the old. The true questions, then, are, have these objects been unnecessarily multiplied? or has the amount expended upon any or all of them been larger than comports with due economy? In accordance with these principles, the heads of the different Executive departments of the government have been instructed to reduce their estimates for the next fiscal year to the lowest standard consistent with the efficiency of the service, and this duty they have performed in a spirit of just economy. The estimates of the Treasury, War, Navy, and Interior Departments, have each been in some degree reduced; and unless a sudden and unforeseen emergency should arise, it is not anticipated that a deficiency will exist in either within the present or the next fiscal year. The Post Office Department is placed in a peculiar position, different from the other departments, and to this I shall hereafter refer.

I invite Congress to institute a rigid scrutiny to ascertain whether the expenses in all the departments cannot be still further reduced; and I promise them all the aid in my power in pursuing the investigation.

I transmit herewith the reports made to me by the Secretaries of War, of the Navy, of the Interior, and of the Postmaster General. They each contain valuable information and important recommendations, to which I invite the attention of Congress.

In my last annual message, I took occasion to recommend the immediate construction of ten small steamers, of light draught, for the purpose of increasing the efficiency of the navy. Congress responded to the recommendation by authorizing the construction of eight of them. The progress which has been made in executing this authority is stated in the re-

port of the Secretary of the Navy. I concur with him in the opinion that a greater number of this class of vessels is necessary, for the purpose of protecting in a more efficient manner the persons and property of American citizens on the high seas and in foreign countries, as well as in guarding more effectually our own coasts. I accordingly recommend the passage of an act for this purpose.

The suggestions contained in the report of the Secretary of the Interior, especially those in regard to the disposition of the public domain, the pension and bounty land system, the policy towards the Indians, and the amendment of our patent laws, are worthy of the serious consideration of Congress.

The Post Office Department occupies a position very different from that of the other departments. For many years it was the policy of the government to render this a self-sustaining department; and if this cannot now be accomplished, in the present condition of the country, we ought to make as near an approach to it as may be practicable.

The Postmaster General is placed in a most embarrassing position by the existing laws. He is obliged to carry these into effect. He has no other alternative. He finds, however, that this cannot be done without heavy demands upon the treasury over and above what is received for postage; and these have been progressively increasing from year to year until they amounted for the last fiscal year, ending on the 30th of June, 1858, to more than four millions and a half of dollars; whilst it is estimated that for the present fiscal year they will amount to \$6,290,000. These sums are exclusive of the annual appropriation of \$700,000 for "compensation for the mail service performed for the two houses of Congress and the other departments and officers of the government in the transmission of free matter."

The cause of these large deficits is mainly attributable to the increased expense of transporting the mails. In 1852 the sum paid for this service was but a fraction above four millions and a quarter. Since that year it has annually increased until in 1858 it has reached more than eight millions and a quarter; and for the service of 1859 it is estimated that it will amount to more than ten millions of dollars.

The receipts of the Post Office Department can be made to approach or to equal its expenditure only by means of the legislation of Congress. In applying any remedy care should be taken that the people shall not be deprived of the advantages which they are fairly entitled to enjoy from the Post Office Department. The principal remedies recommended to the consideration of Congress by the Postmaster General, are to restore the former rate of postage upon single letters to five cents; to substitute for the franking privilege the delivery, to those now entitled to enjoy it, of post office stamps for their correspondence, and to direct the department in making contracts for the transportation of the mail, to confine itself to the payment of the sum necessary for this single purpose, without requiring it to be transported in post coaches or carriages of any particular description. Under the present system the expense to the Government is greatly increased, by requiring that the mail shall be carried in such vehicles as will accommodate passengers. This will be done, without pay from the department, over all roads where the travel will remunerate the contractors.

These recommendations deserve the grave consideration of Congress.

I would again call your attention to the construction of a Pacific railroad. Time and reflection have but served to confirm me in the truth and justice of the observations which I made on this subject in my last annual message, to which I beg leave respectfully to refer.

It is freely admitted that it would be inexpedient for this government to exercise the power of constructing the Pacific railroad by its own immediate agents. Such a policy would increase the patronage of the Executive to a dangerous extent, and introduce a system of jobbing and corruption which no vigilance on the part of federal officials could either prevent or detect. This can only be done by the keen eye and active and careful supervision of individual and private interest. The construction of this road ought, therefore, to be committed to companies incorporated by the States, or other agencies whose pecuniary interests would be directly involved. Congress might then assist them in the work by grants of land

or of money, or both, under such conditions and restrictions as would secure the transportation of troops and munitions of war free from any charge, and that of the United States mail at a fair and reasonable price.

The progress of events since the commencement of your last session has shown how soon difficulties disappear before a firm and determined resolution. At that time such a road was deemed by wise and patriotic men to be a visionary project. The great distance to be overcome, and the intervening mountains and deserts in the way, were obstacles which, in the opinion of many, could not be surmounted. Now, after the lapse of but a single year, these obstacles, it has been discovered, are far less formidable than they were supposed to be ; and mail stages with passengers, now pass and repass regularly twice in each week, by a common wagon road, between San Francisco and St. Louis and Memphis, in less than twenty-five days. The service has been as regularly performed as it was in former years, between New York and this city.

Whilst disclaiming all authority to appropriate money for the construction of this road, except that derived from the war-making power of the Constitution, there are important collateral considerations urging us to undertake the work as speedily as possible.

The first and most momentous of these is that such a road would be a powerful bond of union between the States east and west of the Rocky mountains. This is so self-evident as to require no illustration.

But again, in a commercial point of view, I consider this the great question of the day. With the eastern front of our republic stretching along the Atlantic, and its western front along the Pacific, if all the parts should be united by a safe, easy, and rapid intercommunication, we must necessarily command a very large proportion of the trade both of Europe and Asia. Our recent treaties with China and Japan will open these rich and populous empires to our commerce ; and the history of the world proves that the nation which has gained possession of the trade with Eastern Asia, has always become wealthy and powerful. The peculiar geographical position of California and our Pacific possessions, invites American cap-

ital and enterprise into this fruitful field. To reap the rich harvest, however, it is an indispensable prerequisite, that we shall first have a railroad to convey and circulate its products throughout every portion of the Union. Besides, such a railroad through our temperate latitude, which would not be impeded by the frosts and snows of winter, nor by the tropical heats of summer, would attract to itself much of the travel and the trade of all nations passing between Europe and Asia.

On the 21st of August last, Lieutenant J. N. Maffit, of the United States brig *Dolphin*, captured the slaver "Echo," (formerly the *Putnam*, of New Orleans,) near Kay Verde, on the coast of Cuba, with more than three hundred African negroes on board. The prize, under the command of Lieutenant Bradford of the United States navy, arrived at Charleston on the 27th August; when the negroes, three hundred and six in number, were delivered into the custody of the United States marshal for the district of South Carolina. They were first placed in Castle Pinckney, and afterwards in Fort Sumter, for safe-keeping, and were detained there until the 19th September, when the survivors, two hundred and seventy-one in number, were delivered on board the United States steamer *Niagara*, to be transported to the coast of Africa, under the charge of the agent of the United States, pursuant to the provisions of the act of the 3d March, 1819, "in addition to the acts prohibiting the slave trade." Under the 2d section of this act, the President is "authorized to make such regulations and arrangements as he may deem expedient, for the safe-keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of color," captured by vessels of the United States, as may be delivered to the marshal of the district into which they are brought; "and to appoint a proper person or persons residing upon the coast of Africa, as agent or agents for receiving the negroes, mulattoes, or persons of color, delivered from on board vessels seized in the prosecution of the slave trade by commanders of the United States armed vessels."

A doubt immediately arose as to the true construction of this act. It is quite clear from its terms that the President was authorized to provide "for the safe-keeping, support, and re-

moval" of these negroes up till the time of their delivery to the agent on the coast of Africa ; but no express provision was made for their protection and support after they had reached the place of their destination. Still, an agent was to be appointed to receive them in Africa, and it could not have been supposed that Congress intended he should desert them at the moment they were received, and turn them loose on that inhospitable coast to perish for want of food or to become again the victims of the slave trade. Had this been the intention of Congress, the employment of an agent to receive them, who is required to reside on the coast, was unnecessary, and they might have been landed by our vessels anywhere in Africa and left exposed to the sufferings and the fate which would certainly await them.

Mr. Monroe, in his special message of December 17, 1819, at the first session after the act was passed, announced to Congress what, in his opinion, was its true construction. He believed it to be his duty under it to follow these unfortunates into Africa, and make provision for them there until they should be able to provide for themselves. In communicating this interpretation of the act to Congress he stated that some doubt had been entertained as to its true intent and meaning, and he submitted the question to them, so that they might, "should it be deemed advisable, amend the same before further proceedings are had under it." Nothing was done by Congress to explain the act, and Mr. Monroe proceeded to carry it into execution according to his own interpretation. This, then, became the practical construction. When the Africans from on board the *Echo* were delivered to the marshal at Charleston it became my duty to consider what disposition ought to be made of them under the law. For many reasons it was expedient to remove them from that locality as speedily as possible. Although the conduct of the authorities and citizens of Charleston in giving countenance to the execution of the law was just what might have been expected from their high character, yet a prolonged continuance of three hundred Africans in the immediate vicinity of that city could not have failed to become a source of inconvenience and anxiety to its inhabitants. Where to send them, was the ques-

tion. There was no portion of the coast of Africa, to which they could be removed with any regard to humanity, except to Liberia. Under these circumstances, an agreement was entered into with the Colonization Society on the 7th of September last, a copy of which is herewith transmitted, under which the Society engaged, for the consideration of forty-five thousand dollars, to receive these Africans in Liberia from the agent of the United States, and furnish them during the period of one year thereafter, with comfortable shelter, clothing, provisions, and medical attendance, causing the children to receive schooling; and all, whether children or adults, to be instructed in the arts of civilized life suitable to their condition. This aggregate of forty-five thousand dollars was based upon an allowance of one hundred and fifty dollars for each individual, and as there has been considerable mortality among them, and may be more before they reach Africa, the society have agreed, in an equitable spirit, to make such a deduction from the amount, as under the circumstances may appear just and reasonable. This cannot be fixed until we shall ascertain the actual number which may become a charge to the society.

It was also distinctly agreed, that, under no circumstances shall this government be called upon for any additional expenses.

The agents of the society manifested a laudable desire to conform to the wishes of the government, throughout the transaction. They assured me that, after a careful calculation, they would be required to expend the sum of one hundred and fifty dollars on each individual in complying with the agreement, and they would have nothing left to remunerate them for their care, trouble, and responsibility. At all events, I could make no better arrangement, and there was no other alternative. During the period when the government itself, through its own agents, undertook the task of providing for captured negroes in Africa, the cost per head was very much greater.

There having been no outstanding appropriation applicable to this purpose, I could not advance any money on the agreement. I therefore recommend that an appropriation may be made of the amount necessary to carry it into effect.

Other captures of a similar character may, and probably will be made by our naval forces ; and I earnestly recommend that Congress may amend the second section of the act of March 3, 1819, so as to free its construction from the ambiguity which has so long existed, and render the duty of the President plain in executing its provisions.

I recommend to your favorable regard the local interests of the District of Columbia. As the residence of Congress and the Executive departments of the government, we cannot fail to feel a deep concern in its welfare. This is heightened by the high character and the peaceful and orderly conduct of its resident inhabitants.

I cannot conclude without performing the agreeable duty of expressing my gratification that Congress so kindly responded to the recommendation of my last annual message, by affording me sufficient time before the close of their late session for the examination of all the bills presented to me for approval. This change in the practice of Congress has proved to be a wholesome reform. It exerted a beneficial influence on the transaction of legislative business, and elicited the general approbation of the country. It enabled Congress to adjourn with that dignity and deliberation so becoming to the representatives of this great republic, without having crowded into general appropriation bills provisions foreign to their nature, and of doubtful constitutionality and expediency. Let me warmly and strongly commend this precedent, established by themselves, as a guide to their proceedings during the present session.

JAMES BUCHANAN.

WASHINGTON CITY, *December 6, 1858.*

ANNUAL MESSAGE TO THE TWO HOUSES OF
CONGRESS AT THE COMMENCEMENT
OF THE FIRST SESSION OF THE
THIRTY-SIXTH CONGRESS.

Our gratitude due to Almighty God for the past year's blessings.—Outbreak at Harper's Ferry.—A warning to cultivate good-will and allay the spirit of sectional hatred.—Congratulations upon the final adjudication by the Supreme Court of the question of slavery in the Territories.—The African slave trade.—The fathers of the Republic in advance of all other nations condemned it.—History of its abolition.—Its miseries depicted.—Treaty with China.—Difficulties with Paraguay satisfactorily adjusted.—The expenses of the Naval expedition nearly wholly defrayed out of the ordinary appropriation for the Navy.—Relations with Russia and France.—Relations with Spain still unsatisfactory.—Acquisition of Cuba still urged on Congress.—Great Britain, and difficulty in regard to the Island of San Juan under the Oregon Treaty of 15th June, 1846.—Amicable arrangement for the present in regard thereto.—Unsatisfactory state of our relations with Mexico, and the President's recommendation of assistance to the Constitutional government of Juarez.—Treaty with Nicaragua.—The Transit routes.—The President asks Congress for authority to employ the Navy to protect American merchant vessels, crews, and cargoes against violent and lawless seizure and confiscation in the ports of Mexico and South American States.—Post Office Deficiency Bill which Congress failed to pass at its last session.—Grave complications possible from such non-action.—Again expresses a decided opinion in favor of a prompt construction of the Pacific railway, and assigns his reasons therefor.—State of the Federal Treasury.—Economy urged.—Ascertained and estimated expenditures of the Government for the year ending June 30th, 1861, \$53,451,744.89, or with interest on public debt, \$61,002,732.99.—Reports of the several Departments.—District of Columbia.

Fellow-citizens of the Senate and House of Representatives :

Our deep and heartfelt gratitude is due to that Almighty Power which has bestowed upon us such varied and numerous blessings throughout the past year. The general health of the country has been excellent: our harvests have been unusually plentiful, and prosperity smiles throughout the land.

Indeed, notwithstanding our demerits, we have much reason to believe, from the past events in our history, that we have enjoyed the special protection of Divine Providence ever since our origin as a nation. We have been exposed to many threatening and alarming difficulties in our progress, but on each successive occasion the impending cloud has been dissipated at the moment it appeared ready to burst upon our head, and the danger to our institutions has passed away. May we ever be under the Divine guidance and protection !

Whilst it is the duty of the President, "from time to time, to give to Congress information of the state of the Union," I shall not refer in detail to the recent sad and bloody occurrences at Harper's Ferry. Still, it is proper to observe that these events, however bad and cruel in themselves, derive their chief importance from the apprehension that they are but symptoms of an incurable disease in the public mind, which may break out in still more dangerous outrages, and terminate, at last, in an open war by the North to abolish slavery in the South.

Whilst, for myself, I entertain no such apprehension, they ought to afford a solemn warning to us all to beware of the approach of danger. Our Union is a stake of such inestimable value as to demand our constant and watchful vigilance for its preservation. In this view, let me implore my countrymen, North and South, to cultivate the ancient feelings of mutual forbearance and good will toward each other, and strive to allay the demon-spirit of sectional hatred and strife now alive in the land. This advice proceeds from the heart of an old public functionary whose service commenced in the last generation, among the wise and conservative statesmen of that day, now nearly all passed away, and whose first and dearest earthly wish is to leave his country tranquil, prosperous, united, and powerful.

We ought to reflect that in this age, and especially in this country, there is an incessant flux and reflux of public opinion. Questions which in their day assumed a most threatening aspect have now nearly gone from the memory of men. They are "volcanoes burnt out, and on the lava and ashes and squalid scoria of old eruptions grow the peaceful olive,

the cheering vine, and the sustaining corn." Such, in my opinion, will prove to be the fate of the present sectional excitement should those who wisely seek to apply the remedy continue always to confine their efforts within the pale of the Constitution. If this course be pursued, the existing agitation on the subject of domestic slavery, like everything human, will have its day, and give place to other and less threatening controversies. Public opinion in this country is all powerful, and when it reaches a dangerous excess, upon any question, the good sense of the people will furnish the corrective, and bring it back within safe limits. Still, to hasten this auspicious result at the present crisis, we ought to remember that every rational creature must be presumed to intend the natural consequences of his own teachings. Those who announce abstract doctrines subversive of the Constitution and the Union must not be surprised should their heated partisans advance one step further and attempt by violence to carry these doctrines into practical effect. In this view of the subject it ought never to be forgotten that however great may have been the political advantages resulting from the Union to every portion of our common country, these would all prove to be as nothing should the time ever arrive when they cannot be enjoyed without serious danger to the personal safety of the people of fifteen members of the confederacy. If the peace of the domestic fireside throughout these States should ever be invaded—if the mothers of families within this extensive region should not be able to retire to rest at night without suffering dreadful apprehensions of what may be their own fate and that of their children before the morning—it would be vain to recount to such a people the political benefits which result to them from the Union. Self-preservation is the first instinct of nature, and therefore any state of society in which the sword is all the time suspended over the heads of the people must at last become intolerable. But I indulge in no such gloomy forebodings. On the contrary, I firmly believe that the events at Harper's Ferry, by causing the people to pause and reflect upon the possible peril to their cherished institutions, will be the means, under Providence, of allaying the existing excitement and preventing further outbreaks of a

similar character. They will resolve that the Constitution and the Union shall not be endangered by rash counsels, knowing that should "the silver cord be loosed or the golden bowl be broken * * * at the fountain," human power could never reunite the scattered and hostile fragments.

I cordially congratulate you upon the final settlement, by the Supreme Court of the United States, of the question of slavery in the Territories, which had presented an aspect so truly formidable at the commencement of my administration. The right has been established of every citizen to take his property of any kind, including slaves, into the common Territories belonging equally to all the States of the confederacy, and to have it protected there under the Federal Constitution. Neither Congress, nor a territorial legislature, nor any human power, has any authority to annul or impair this vested right. The supreme judicial tribunal of the country, which is a coördinate branch of the government, has sanctioned and affirmed these principles of constitutional law, so manifestly just in themselves, and so well calculated to promote peace and harmony among the States. It is a striking proof of the sense of justice which is inherent in our people, that the property in slaves has never been disturbed, to my knowledge, in any of the Territories. Even throughout the late troubles in Kansas, there has not been any attempt, as I am credibly informed, to interfere in a single instance with the right of the master. Had any such attempt been made, the judiciary would doubtless have afforded an adequate remedy. Should they fail to do this hereafter, it will then be time enough to strengthen their hands by further legislation. Had it been decided that either Congress or the territorial legislature possess the power to annul or impair the right to property in slaves, the evil would be intolerable. In the latter event there would be a struggle for a majority of the members of the legislature at each successive election, and the sacred rights of property held under the Federal Constitution would depend, for the time being, on the result. The agitation would thus be rendered incessant whilst the territorial condition remained, and its baneful influence would keep alive a dangerous excitement among the people of the several States.

Thus has the status of a Territory, during the intermediate period from its first settlement until it shall become a State, been irrevocably fixed by the final decision of the Supreme Court. Fortunate has this been for the prosperity of the Territories, as well as the tranquillity of the States. Now, emigrants from the North and the South, the East and the West, will meet in the Territories on a common platform, having brought with them that species of property best adapted, in their own opinion, to promote their welfare. From natural causes the slavery question will in each case soon virtually settle itself ; and before the Territory is prepared for admission as a State into the Union, this decision, one way or the other, will have been a foregone conclusion. Meanwhile, the settlement of the new Territory will proceed without serious interruption, and its progress and prosperity will not be endangered or retarded by violent political struggles.

When, in the progress of events, the inhabitants of any Territory shall have reached the number required to form a State, they will then proceed in a regular manner, and in the exercise of the rights of popular sovereignty, to form a constitution preparatory to admission into the Union. After this has been done, to employ the language of the Kansas and Nebraska act, they "shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission." This sound principle has happily been recognized, in some form or other, by an almost unanimous vote of both houses of the last Congress.

All lawful means at my command have been employed, and shall continue to be employed, to execute the laws against the African slave trade. After a most careful and rigorous examination of our coasts, and a thorough investigation of the subject, we have not been able to discover that any slaves have been imported into the United States except the cargo by the *Wanderer*, numbering between three and four hundred. Those engaged in this unlawful enterprise have been rigorously prosecuted, but not with as much success as their crimes have deserved. A number of them are still under prosecution.

Our history proves that the fathers of the republic, in ad-

vance of all other nations, condemned the African slave trade. It was, notwithstanding, deemed expedient by the framers of the Constitution to deprive Congress of the power to prohibit "the migration or importation of such persons as any of the States now existing shall think proper to admit" "prior to the year one thousand eight hundred and eight." It will be seen that this restriction on the power of Congress was confined to such States only as might think proper to admit the importation of slaves. It did not extend to other States or to the trade carried on abroad. Accordingly we find that so early as the 22d March, 1794, Congress passed an act imposing severe penalties and punishments upon citizens and residents of the United States who should engage in this trade between foreign nations. The provisions of this act were extended and enforced by the act of 10th May, 1800.

Again : the States themselves had a clear right to waive the constitutional privilege intended for their benefit, and to prohibit by their own laws this trade at any time they thought proper previous to 1808. Several of them exercised this right before that period, and among them some containing the greatest number of slaves. This gave to Congress the immediate power to act in regard to all such States, because they themselves had removed the constitutional barrier. Congress accordingly passed an act on 28th February, 1803, "to prevent the importation of certain persons into certain States where, by the laws thereof, their admission is prohibited." In this manner the importation of African slaves into the United States was to a great extent prohibited some years in advance of 1808.

As the year 1808 approached, Congress determined not to suffer this trade to exist even for a single day after they had the power to abolish it. On the 2d of March, 1807, they passed an act to take effect "from and after the first day of January, 1808," prohibiting the importation of African slaves into the United States. This was followed by subsequent acts of a similar character, to which I need not specially refer. Such were the principles and such the practice of our ancestors more than fifty years ago in regard to the African slave trade. It did not occur to the revered patriots who had been dele-

gates to the convention, and afterwards became members of Congress, that in passing these laws they had violated the Constitution which they had framed with so much care and deliberation. They supposed that to prohibit Congress, in express terms, from exercising a specified power before an appointed day, necessarily involved the right to exercise this power after that day had arrived.

If this were not the case, the framers of the Constitution had expended much labor in vain. Had they imagined that Congress would possess no power to prohibit the trade either before or after 1808, they would not have taken so much care to protect the States against the exercise of this power before that period. Nay, more, they would not have attached such vast importance to this provision as to have excluded it from the possibility of future repeal or amendment, to which other portions of the Constitution were exposed. It would, then, have been wholly unnecessary to engraft on the fifth article of the Constitution, prescribing the mode of its own future amendment, the proviso, "that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect" the provision in the Constitution securing to the States the right to admit the importation of African slaves previous to that period. According to the adverse construction, the clause itself, on which so much care and discussion had been employed by the members of the convention, was an absolute nullity from the beginning, and all that has since been done under it a mere usurpation.

It was well and wise to confer this power on Congress ; because had it been left to the States its efficient exercise would have been impossible. In that event, any one State could have effectually continued the trade not only for itself, but for all the other slave States, though never so much against their will. And why ? Because African slaves, when once brought within the limits of any one State in accordance with its laws, cannot practically be excluded from any other State where slavery exists. And even if all the States had separately passed laws prohibiting the importation of slaves, these laws would have failed of effect for want of a naval force to capture the slavers and to guard the coast. Such a force

no State can employ in time of peace without the consent of Congress.

These acts of Congress, it is believed, have, with very rare and insignificant exceptions, accomplished their purpose. For a period of more than half a century there has been no perceptible addition to the number of our domestic slaves. During this period their advancement in civilization has far surpassed that of any other portion of the African race. The light and the blessings of Christianity have been extended to them, and both their moral and physical condition has been greatly improved.

Reopen the trade, and it would be difficult to determine whether the effect would be more deleterious on the interests of the master, or on those of the native born slave. Of the evils to the master, the one most to be dreaded would be the introduction of wild, heathen, and ignorant barbarians among the sober, orderly, and quiet slaves whose ancestors have been on the soil for several generations. This might tend to barbarize, demoralize, and exasperate the whole mass, and produce most deplorable consequences.

The effect upon the existing slave would, if possible, be still more deplorable. At present, he is treated with kindness and humanity. He is well fed, well clothed, and not overworked. His condition is incomparably better than that of the coolies which modern nations of high civilization have employed as a substitute for African slaves. Both the philanthropy and the self-interest of the master have combined to produce this humane result. But let this trade be reopened, and what will be the effect? The same, to a considerable extent, as on a neighboring island—the only spot now on earth where the African slave trade is openly tolerated; and this in defiance of solemn treaties with a power abundantly able at any moment to enforce their execution. There the master, intent upon present gain, extorts from the slave as much labor as his physical powers are capable of enduring; knowing that, when death comes to his relief, his place can be supplied at a price reduced to the lowest point by the competition of rival African slave-traders. Should this ever be the case in our country, which I do not deem possible, the present useful

character of the domestic institution, wherein those too old and too young to work are provided for with care and humanity, and those capable of labor are not overtasked, would undergo an unfortunate change. The feeling of reciprocal dependence and attachment which now exists between master and slave would be converted into mutual distrust and hostility.

But we are obliged, as a Christian and moral nation, to consider what would be the effect upon unhappy Africa itself if we should reopen the slave trade. This would give the trade an impulse and extension which it has never had even in its palmy days. The numerous victims required to supply it would convert the whole slave coast into a perfect pandemonium, for which this country would be held responsible in the eyes both of God and man. Its petty tribes would then be constantly engaged in predatory wars against each other for the purpose of seizing slaves to supply the American market. All hopes of African civilization would thus be ended.

On the other hand, when a market for African slaves shall no longer be furnished in Cuba, and thus all the world be closed against this trade, we may then indulge a reasonable hope for the gradual improvement of Africa. The chief motive of war among the tribes will cease whenever there is no longer any demand for slaves. The resources of that fertile but miserable country might then be developed by the hand of industry, and afford subjects for legitimate foreign and domestic commerce. In this manner Christianity and civilization may gradually penetrate the existing gloom.

The wisdom of the course pursued by this government towards China has been vindicated by the event. Whilst we sustained a neutral position in the war waged by Great Britain and France against the Chinese empire, our late minister, in obedience to his instructions, judiciously coöperated with the ministers of these powers in all peaceful measures to secure, by treaty, the just concessions demanded by the interests of foreign commerce. The result is, that satisfactory treaties have been concluded with China by the respective ministers of the United States, Great Britain, France, and Russia. Our "treaty, or general convention of peace, amity, and com-

merce," with that empire, was concluded at Tientsin on the 18th June, 1858, and was ratified by the President, by and with the advice and consent of the Senate, on the 21st December following. On the 15th December, 1858, John E. Ward, a distinguished citizen of Georgia, was duly commissioned as envoy extraordinary and minister plenipotentiary to China.

He left the United States for the place of his destination on the 5th of February, 1859, bearing with him the ratified copy of this treaty, and arrived at Shanghai on the 28th May. From thence he proceeded to Peking on the 16th June, but did not arrive in that city until the 27th July. According to the terms of the treaty the ratifications were to be exchanged on or before the 18th June, 1859. This was rendered impossible by reasons and events beyond his control, not necessary to detail; but still it is due to the Chinese authorities at Shanghai to state that they always assured him no advantage should be taken of the delay, and this pledge has been faithfully redeemed.

On the arrival of Mr. Ward at Peking he requested an audience of the emperor to present his letter of credence. This he did not obtain, in consequence of his very proper refusal to submit to the humiliating ceremonies required by the etiquette of this strange people in approaching their sovereign. Nevertheless, the interviews on this question were conducted in the most friendly spirit, and with all due regard to his personal feelings and the honor of his country. When a presentation to his Majesty was found to be impossible, the letter of credence from the President was received with peculiar honors by Kweiliang, "the emperor's prime minister and the second man in the empire to the emperor himself." The ratifications of the treaty were afterwards, on the 16th of August, exchanged in proper form at Pei-tsang. As the exchange did not take place until after the day prescribed by the treaty, it is deemed proper, before its publication, again to submit it to the Senate. It is but simple justice to the Chinese authorities to observe that, throughout the whole transaction, they appear to have acted in good faith and in a friendly spirit towards the United States. It is true this has been done after their own

peculiar fashion ; but we ought to regard with a lenient eye the ancient customs of an empire dating back for thousands of years, so far as this may be consistent with our own national honor. The conduct of our minister on the occasion has received my entire approbation.

In order to carry out the spirit of this treaty, and to give it full effect, it became necessary to conclude two supplemental conventions—the one for the adjustment and satisfaction of the claims of our citizens, and the other to fix the tariff on imports and exports, and to regulate the transit duties and trade of our merchants with China. This duty was satisfactorily performed by our late minister. These conventions bear date at Shanghai on the 8th November, 1858. Having been considered in the light of binding agreements subsidiary to the principal treaty, and to be carried into execution without delay, they do not provide for any formal ratification or exchange of ratifications by the contracting parties. This was not deemed necessary by the Chinese, who are already proceeding in good faith to satisfy the claims of our citizens, and, it is hoped, to carry out the other provisions of the conventions. Still I thought it was proper to submit them to the Senate, by which they were ratified on the 3d of March, 1859. The ratified copies, however, did not reach Shanghai until after the departure of our minister to Peking, and these conventions could not, therefore, be exchanged at the same time with the principal treaty. No doubt is entertained that they will be ratified and exchanged by the Chinese government should this be thought advisable ; but, under the circumstances presented, I shall consider them binding engagements from their date on both parties, and cause them to be published as such for the information and guidance of our merchants trading with the Chinese empire.

It affords me much satisfaction to inform you that all our difficulties with the republic of Paraguay have been satisfactorily adjusted. It happily did not become necessary to employ the force for this purpose which Congress had placed at my command, under the joint resolution of 2d June, 1858. On the contrary, the president of that republic, in a friendly spirit, acceded promptly to the just and reasonable demands

of the government of the United States. Our commissioner arrived at Assumption, the capital of the republic, on the 25th of January, 1859, and left it on the 17th of February, having in three weeks ably and successfully accomplished all the objects of his mission. The treaties which he has concluded will be immediately submitted to the Senate.

In the view that the employment of other than peaceful means might become necessary to obtain "just satisfaction" from Paraguay, a strong naval force was concentrated in the waters of the La Plata to await contingencies whilst our commissioner ascended the rivers to Assumption. The Navy Department is entitled to great credit for the promptness, efficiency, and economy with which this expedition was fitted out and conducted. It consisted of nineteen armed vessels, great and small, carrying two hundred guns and twenty-five hundred men, all under the command of the veteran and gallant Shubrick. The entire expenses of the expedition have been defrayed out of the ordinary appropriations for the naval service, except the sum of \$289,000 applied to the purchase of seven of the steamers constituting a part of it, under the authority of the naval appropriation act of the 3d March last. It is believed that these steamers are worth more than their cost, and they are all now usefully and actively employed in the naval service.

The appearance of so large a force, fitted out in such a prompt manner, in the far distant waters of the La Plata, and the admirable conduct of the officers and men employed in it, have had a happy effect in favor of our country throughout all that remote portion of the world.

Our relations with the great empires of France and Russia, as well as with all other governments on the continent of Europe, unless we may except that of Spain, happily continue to be of the most friendly character.

In my last annual message I presented a statement of the unsatisfactory condition of our relations with Spain; and I regret to say that this has not materially improved.

Without special reference to other claims, even the "Cuban claims," the payment of which has been ably urged by our ministers, and in which more than a hundred of our citizens

are directly interested, remain unsatisfied, notwithstanding both their justice and their amount (\$128,635 54) had been recognized and ascertained by the Spanish government itself.

I again recommend that an appropriation be made, "to be paid to the Spanish government, for the purpose of distribution among the claimants in the Amistad case." In common with two of my predecessors, I entertain no doubt that this is required by our treaty with Spain of the 27th October, 1795. The failure to discharge this obligation has been employed by the cabinet of Madrid as a reason against the settlement of our claims.

I need not repeat the arguments which I urged in my last annual message in favor of the acquisition of Cuba by fair purchase. My opinions on that measure remain unchanged. I therefore again invite the serious attention of Congress to this important subject. Without a recognition of this policy on their part, it will be almost impossible to institute negotiations with any reasonable prospect of success.

Until a recent period there was good reason to believe that I should be able to announce to you on the present occasion that our difficulties with Great Britain, arising out of the Clayton and Bulwer treaty, had been finally adjusted in a manner alike honorable and satisfactory to both parties. From causes, however, which the British government had not anticipated, they have not yet completed treaty arrangements with the republics of Honduras and Nicaragua, in pursuance of the understanding between the two governments. It is nevertheless confidently expected that this good work will ere long be accomplished.

Whilst indulging the hope that no other subject remained which could disturb the good understanding between the two countries, the question arising out of the adverse claims of the parties to the island of San Juan, under the Oregon treaty of the 15th June, 1846, suddenly assumed a threatening prominence. In order to prevent unfortunate collisions on that remote frontier, the late Secretary of State, on the 17th July, 1855, addressed a note to Mr. Crampton, then British minister at Washington, communicating to him a copy of the instruc-

tions which he (Mr. Marcy) had given on the 14th July, to Gov. Stevens, of Washington Territory, having a special reference to an "apprehended conflict between our citizens and the British subjects on the island of San Juan." To prevent this, the governor was instructed "that the officers of the Territory should abstain from all acts on the disputed grounds which are calculated to provoke any conflicts, so far as it can be done without implying the concession to the authorities of Great Britain of an exclusive right over the premises. The title ought to be settled before either party should attempt to exclude the other by force, or exercise complete and exclusive sovereign rights within the fairly disputed limits."

In acknowledging the receipt, on the next day, of Mr. Marcy's note, the British minister expressed his entire concurrence "in the propriety of the course recommended to the governor of Washington Territory by your [Mr. Marcy's] instructions to that officer," and stating that he had "lost no time in transmitting a copy of that document to the governor general of British North America," and had "earnestly recommended to his excellency to take such measures as to him may appear best calculated to secure, on the part of the British local authorities and the inhabitants of the neighborhood of the line in question, the exercise of the same spirit of forbearance which is inculcated by you [Mr. Marcy] on the authorities and citizens of the United States."

Thus matters remained upon the faith of this arrangement until the 9th July last, when General Harney paid a visit to the island. He found upon it twenty-five American residents, with their families, and also an establishment of the Hudson's Bay Company, for the purpose of raising sheep. A short time before his arrival, one of these residents had shot an animal belonging to the company, whilst trespassing upon his premises, for which, however, he offered to pay twice its value, but that was refused. Soon after "the chief factor of the company at Victoria, Mr. Dalles, son-in-law of Governor Douglas, came to the island in the British sloop-of-war Satellite, and threatened to take "this American (Mr. Cutler) by force to Victoria, to answer for the trespass he had committed. The American seized his rifle and told Mr. Dalles if any such

attempt was made he would kill him upon the spot. The affair then ended."

Under these circumstances, the American settlers presented a petition to the general, "through the United States inspector of customs, Mr. Hubbs, to place a force upon the island to protect them from the Indians as well as the oppressive interference of the authorities of the Hudson Bay Company at Victoria, with their rights as American citizens." The general immediately responded to this petition, and ordered Captain George E. Pickett, 9th infantry, "to establish his company on Bellevue, or San Juan island, on some suitable position near the harbor at the southeastern extremity." This order was promptly obeyed, and a military post was established at the place designated. The force was afterwards increased, so that by the last return the whole number of troops then on the island amounted in the aggregate to six hundred and ninety-one men.

Whilst I do not deem it proper, on the present occasion, to go further into the subject, and discuss the weight which ought to be attached to the statements of the British colonial authorities, contesting the accuracy of the information on which the gallant general acted, it was due to him that I should thus present his own reasons for issuing the order to Captain Pickett. From these it is quite clear his object was to prevent the British authorities on Vancouver's island from exercising jurisdiction over American residents on the island of San Juan, as well as to protect them against the incursions of the Indians. Much excitement prevailed for some time throughout that region, and serious danger of collision between the parties was apprehended. The British had a large naval force in the vicinity; and it is but an act of simple justice to the admiral on that station to state that he wisely and discreetly forebore to commit any hostile act, but determined to refer the whole affair to his government and await their instructions.

This aspect of the matter, in my opinion, demanded serious attention. It would have been a great calamity for both nations had they been precipitated into acts of hostility, not on the question of title to the island, but merely concerning

what should be its condition during the intervening period whilst the two governments might be employed in settling the question to which of them it belongs. For this reason Lieutenant General Scott was dispatched, on the 17th of September last, to Washington Territory, to take immediate command of the United States forces on the Pacific coast, should he deem this necessary. The main object of his mission was to carry out the spirit of the precautionary arrangement between the late Secretary of State and the British minister, and thus to preserve the peace and prevent collision between the British and American authorities pending the negotiations between the two governments. Entertaining no doubt of the validity of our title, I need scarcely add, that in any event, American citizens were to be placed on a footing at least as favorable as that of British subjects, it being understood that Captain Pickett's company should remain on the island. It is proper to observe that, considering the distance from the scene of action, and in ignorance of what might have transpired on the spot before the general's arrival, it was necessary to leave much to his discretion ; and I am happy to state the event has proven that this discretion could not have been intrusted to more competent hands. General Scott has recently returned from his mission, having successfully accomplished its objects, and there is no longer any good reason to apprehend a collision between the forces of the two countries during the pendency of the existing negotiations.

I regret to inform you that there has been no improvement in the affairs of Mexico since my last annual message, and I am again obliged to ask the earnest attention of Congress to the unhappy condition of that republic.

The constituent congress of Mexico, which adjourned on the 17th of February, 1857, adopted a constitution and provided for a popular election. This took place in the following July, (1857,) and General Comonfort was chosen president almost without opposition. At the same election a new congress was chosen, whose first session commenced on the 16th of September, (1857.) By the constitution of 1857 the presidential term was to begin on the 1st of December, (1857,) and continue for four years. On that day General Comonfort ap-

peared before the assembled congress in the city of Mexico, took the oath to support the new constitution, and was duly inaugurated as president. Within a month afterwards he had been driven from the capital, and a military rebellion had assigned the supreme power of the republic to General Zuloaga. The constitution provided that, in the absence of the president, his office should devolve upon the chief justice of the supreme court ; and General Comonfort having left the country, this functionary, General Juarez, proceeded to form, at Guanajuato, a constitutional government. Before this was officially known, however, at the capital, the government of Zuloaga had been recognized by the entire diplomatic corps, including the minister of the United States, as the *de facto* government of Mexico. The constitutional president nevertheless maintained his position with firmness, and was soon established, with his cabinet, at Vera Cruz. Meanwhile, the government of Zuloaga was earnestly resisted in many parts of the republic ; and even in the capital, a portion of the army having pronounced against it, its functions were declared terminated, and an assembly of citizens was invited for the choice of a new president. This assembly elected General Miramon ; but that officer repudiated the plan under which he was chosen, and Zuloaga was thus restored to his previous position. He assumed it, however, only to withdraw from it ; and Miramon, having become, by his appointment, " president substitute," continues, with that title, at the head of the insurgent party.

In my last annual message I communicated to Congress the circumstances under which the late minister of the United States suspended his official relations with the central government, and withdrew from the country. It was impossible to maintain friendly intercourse with a government like that at the capital, under whose usurped authority wrongs were constantly committed, but never redressed. Had this been an established government, with its power extending, by the consent of the people, over the whole of Mexico, a resort to hostilities against it would have been quite justifiable, and, indeed, necessary. But the country was a prey to civil war, and it was hoped that the success of the constitutional presi-

dent might lead to a condition of things less injurious to the United States. This success became so probable that, in January last, I employed a reliable agent to visit Mexico and report to me the actual condition and prospects of the contending parties. In consequence of his report, and from information which reached me from other sources, favorable to the prospects of the constitutional cause, I felt justified in appointing a new minister to Mexico, who might embrace the earliest suitable opportunity of restoring our diplomatic relations with that republic. For this purpose a distinguished citizen of Maryland was selected, who proceeded on his mission on the 8th of March last, with discretionary authority to recognize the government of President Juarez, if, on his arrival in Mexico, he should find it entitled to such recognition, according to the established practice of the United States.

On the 7th of April following Mr. McLane presented his credentials to President Juarez, having no hesitation "in pronouncing the government of Juarez to be the only existing government of the republic." He was cordially received by the authorities at Vera Cruz, and they have ever since manifested the most friendly disposition towards the United States.

Unhappily, however, the constitutional government has not been able to establish its power over the whole republic.

It is supported by a large majority of the people and the States, but there are important parts of the country where it can enforce no obedience.

General Miramon maintains himself at the capital; and in some of the distant provinces there are military governors who pay little respect to the decrees of either government. In the meantime the excesses which always attend upon civil war, especially in Mexico, are constantly recurring. Outrages of the worst description are committed both upon persons and property. There is scarcely any form of injury which has not been suffered by our citizens in Mexico during the last few years. We have been nominally at peace with that republic, but "so far as the interests of our commerce, or of our citizens who have visited the country as merchants, shipmasters, or in other capacities, are concerned, we might as well have been at war." Life has been insecure, property unprotected,

and trade impossible, except at a risk of loss which prudent men cannot be expected to incur. Important contracts, involving large expenditures, entered into by the central government, have been set at defiance by the local governments. Peaceful American residents, occupying their rightful possessions, have been suddenly expelled the country, in defiance of treaties, and by the mere force of arbitrary power. Even the course of justice has not been safe from control, and a recent decree of Miramon permits the intervention of government in all suits where either party is a foreigner. Vessels of the United States have been seized without law, and a consular officer who protested against such seizure has been fined and imprisoned for disrespect to the authorities. Military contributions have been levied, in violation of every principle of right, and the American who resisted the lawless demand has had his property forcibly taken away, and has been himself banished. From a conflict of authority in different parts of the country, tariff duties which have been paid in one place have been exacted over again in another place. Large numbers of our citizens have been arrested and imprisoned without any form of examination or any opportunity for a hearing, and even when released have only obtained their liberty after much suffering and injury, and without any hope of redress. The wholesale massacre of Crabbe and his associates, without trial, in Sonora, as well as the seizure and murder of four sick Americans who had taken shelter in the house of an American, upon the soil of the United States, was communicated to Congress at its last session. Murders of a still more atrocious character have been committed in the very heart of Mexico, under the authority of Miramon's government, during the present year. Some of these were only worthy of a barbarous age, and if they had not been clearly proven, would have seemed impossible in a country which claims to be civilized. Of this description was the brutal massacre in April last, by order of General Marquez, of three American physicians, who were seized in the hospital at Tacubaya while attending upon the sick and the dying of both parties, and without trial, as without crime, were hurried away to speedy execution. Little less shocking was the recent fate of Ormond Chase, who was

shot in Tepic on the 7th of August by order of the same Mexican general, not only without a trial, but without any conjecture by his friends of the cause of his arrest. He is represented as a young man of good character and intelligence, who had made numerous friends in Tepic by the courage and humanity which he had displayed on several trying occasions, and his death was as unexpected as it was shocking to the whole community. Other outrages might be enumerated, but these are sufficient to illustrate the wretched state of the country and the unprotected condition of the persons and property of our citizens in Mexico.

In all these cases our ministers have been constant and faithful in their demands for redress, but both they and this government, which they have successively represented, have been wholly powerless to make their demands effective. Their testimony in this respect, and in reference to the only remedy which, in their judgments, would meet the exigency, has been both uniform and emphatic. "Nothing but a manifestation of the power of the government of the United States," wrote our late minister in 1856, "and of its purpose to punish these wrongs, will avail. I assure you that the universal belief here is, that there is nothing to be apprehended from the government of the United States, and that local Mexican officials can commit these outrages upon American citizens with absolute impunity." "I hope the President," wrote our present minister in August last, "will feel authorized to ask from Congress the power to enter Mexico with the military forces of the United States, at the call of the constitutional authorities, in order to protect the citizens and the treaty rights of the United States. Unless such a power is conferred upon him, neither the one nor the other will be respected in the existing state of anarchy and disorder, and the outrages already perpetrated will never be chastised; and, as I assured you in my No. 23, all these evils must increase until every vestige of order and government disappears from the country." I have been reluctantly led to the same opinion, and, in justice to my countrymen who have suffered wrongs from Mexico, and who may still suffer them, I feel bound to announce this conclusion to Congress.

The case presented, however, is not merely a case of individual claims, although our just claims against Mexico have reached a very large amount. Nor is it merely the case of protection to the lives and property of the few Americans who may still remain in Mexico, although the life and property of every American citizen ought to be sacredly protected in every quarter of the world. But it is a question which relates to the future as well as to the present and the past, and which involves, indirectly at least, the whole subject of our duty to Mexico as a neighboring state. The exercise of the power of the United States in that country to redress the wrongs and protect the rights of our own citizens is none the less to be desired, because efficient and necessary aid may thus be rendered at the same time to restore peace and order to Mexico itself. In the accomplishment of this result the people of the United States must necessarily feel a deep and earnest interest. Mexico ought to be a rich and prosperous and powerful republic. She possesses an extensive territory, a fertile soil, and an incalculable store of mineral wealth. She occupies an important position between the Gulf and the ocean for transit routes and for commerce. Is it possible that such a country as this can be given up to anarchy and ruin without an effort from any quarter for its rescue and its safety? Will the commercial nations of the world, which have so many interests connected with it, remain wholly indifferent to such a result? Can the United States, especially, which ought to share most largely in its commercial intercourse, allow their immediate neighbor thus to destroy itself and injure them? Yet, without support from some quarter, it is impossible to perceive how Mexico can resume her position among nations and enter upon a career which promises any good results. The aid which she requires, and which the interests of all commercial countries require that she should have, it belongs to this government to render, not only by virtue of our neighborhood to Mexico, along whose territory we have a continuous frontier of nearly a thousand miles, but by virtue, also, of our established policy, which is inconsistent with the intervention of any European power in the domestic concerns of that republic.

The wrongs which we have suffered from Mexico are before the world, and must deeply impress every American citizen. A government which is either unable or unwilling to redress such wrongs is derelict to its highest duties. The difficulty consists in selecting and enforcing the remedy. We may in vain apply to the constitutional government at Vera Cruz, although it is well disposed to do us justice, for adequate redress. Whilst authority is acknowledged in all the important ports and throughout the seacoasts of the republic, its power does not extend to the city of Mexico and the States in its vicinity, where nearly all the recent outrages have been committed on American citizens. We must penetrate into the interior before we can reach the offenders, and this can only be done by passing through the territory in the occupation of the constitutional government. The most acceptable and least difficult mode of accomplishing the object will be to act in concert with that government. Their consent and their aid might, I believe, be obtained ; but if not, our obligation to protect our own citizens in their just rights, secured by treaty, would not be the less imperative. For these reasons I recommend to Congress to pass a law authorizing the President, under such conditions as they may deem expedient, to employ a sufficient military force to enter Mexico for the purpose of obtaining indemnity for the past and security for the future. I purposely refrain from any suggestion as to whether this force shall consist of regular troops or volunteers, or both. This question may be most appropriately left to the decision of Congress. I would merely observe that, should volunteers be selected, such a force could be easily raised in this country among those who sympathize with the sufferings of our unfortunate fellow-citizens in Mexico, and with the unhappy condition of that republic. Such an accession to the forces of the constitutional government would enable it soon to reach the city of Mexico, and extend its power over the whole republic. In that event, there is no reason to doubt that the just claims of our citizens would be satisfied, and adequate redress obtained for the injuries inflicted upon them. The constitutional government have ever evinced a strong desire to do justice, and this might be secured in advance by a preliminary treaty.

It may be said that these measures will, at least indirectly, be inconsistent with our wise and settled policy not to interfere in the domestic concerns of foreign nations. But does not the present case fairly constitute an exception? An adjoining republic is in a state of anarchy and confusion, from which she has proved wholly unable to extricate herself. She is entirely destitute of the power to maintain peace upon her borders, or to prevent the incursions of banditti into our territory. In her fate and in her fortune—in her power to establish and maintain a settled government—we have a far deeper interest, socially, commercially, and politically, than any other nation. She is now a wreck upon the ocean, drifting about as she is impelled by different factions. As a good neighbor, shall we not extend to her a helping hand to save her? If we do not, it would not be surprising should some other nation undertake the task, and thus force us to interfere at last, under circumstances of increased difficulty, for the maintenance of our established policy.

I repeat the recommendation contained in my last annual message, that authority may be given to the President to establish one or more temporary military posts across the Mexican line in Sonora and Chihuahua, where these may be necessary to protect the lives and property of American and Mexican citizens against the incursions and depredations of the Indians, as well as of lawless rovers on that remote region. The establishment of one such post at a point called Arispe, in Sonora, in a country now almost depopulated by the hostile inroads of the Indians from our side of the line, would, it is believed, have prevented much injury and many cruelties during the past season. A state of lawlessness and violence prevails on that distant frontier. Life and property are there wholly insecure. The population of Arizona, now numbering more than ten thousand souls, are practically destitute of government, of laws, or of any regular administration of justice. Murder, rapine, and other crimes are committed with impunity. I therefore again call the attention of Congress to the necessity for establishing a territorial government over Arizona.

The treaty with Nicaragua of the 16th of February, 1857,

to which I referred in my last annual message, failed to receive the ratification of the government of that republic, for reasons which I need not enumerate. A similar treaty has been since concluded between the parties, bearing date on the 16th March, 1859, which has already been ratified by the Nicaraguan congress. This will be immediately submitted to the Senate for their ratification. Its provisions cannot, I think, fail to be acceptable to the people of both countries.

Our claims against the governments of Costa Rica and Nicaragua remain unredressed, though they are pressed in an earnest manner, and not without hope of success.

I deem it to be my duty once more earnestly to recommend to Congress the passage of a law authorizing the President to employ the naval force at his command for the purpose of protecting the lives and property of American citizens passing in transit across the Panama, Nicaragua, and Tehuantepec routes, against sudden and lawless outbreaks and depredations. I shall not repeat the arguments employed in former messages in support of this measure. Suffice it to say that the lives of many of our people, and the security of vast amounts of treasure passing and repassing over one or more of these routes between the Atlantic and Pacific, may be deeply involved in the action of Congress on this subject.

I would also again recommend to Congress that authority be given to the President to employ the naval force to protect American merchant vessels, their crews, and cargoes, against violent and lawless seizure and confiscation in the ports of Mexico and the Spanish American States, when these countries may be in a disturbed and revolutionary condition. The mere knowledge that such an authority had been conferred, as I have already stated, would of itself, in a great degree, prevent the evil. Neither would this require any additional appropriation for the naval service.

The chief objection urged against the grant of this authority is that Congress, by conferring it, would violate the Constitution—that it would be a transfer of the war-making, or, strictly speaking, the war-declaring power to the Executive. If this were well founded it would, of course, be conclusive. A very brief examination, however, will place this objection at rest.

Congress possess the sole and exclusive power, under the Constitution, "to declare war." They alone can "raise and support armies," and "provide and maintain a navy." But after Congress shall have declared war, and provided the force necessary to carry it on, the President, as commander-in-chief of the army and navy, can alone employ this force in making war against the enemy. This is the plain language, and history proves that it was the well known intention of the framers of the Constitution.

It will not be denied that the general "power to declare war" is without limitation, and embraces within itself not only what writers on the law of nations term a public or perfect war, but also an imperfect war, and, in short, every species of hostility however confined or limited. Without the authority of Congress the President cannot fire a hostile gun in any case except to repel the attacks of an enemy. It will not be doubted that under this power Congress could, if they thought proper, authorize the President to employ the force at his command to seize a vessel belonging to an American citizen which had been illegally and unjustly captured in a foreign port and restore it to its owner. But can Congress only act after the fact, after the mischief has been done? Have they no power to confer upon the President the authority in advance to furnish instant redress should such a case afterward occur? Must they wait until the mischief has been done, and can they apply the remedy only when it is too late? To confer this authority to meet future cases, under circumstances strictly specified, is as clearly within the war-declaring power as such an authority conferred upon the President by act of Congress after the deed had been done. In the progress of a great nation many exigencies must arise imperatively requiring that Congress should authorize the President to act promptly on certain conditions which may or may not afterward arise. Our history has already presented a number of such cases. I shall refer only to the latest.

Under the resolution of June 2, 1858, "for the adjustment of difficulties with the republic of Paraguay," the President is "authorized to adopt such measures and use such force as in his judgment may be necessary and advisable in the event

of a refusal of just satisfaction by the government of Paraguay." "Just satisfaction" for what? For "the attack on the United States steamer *Water Witch*," and "other matters referred to in the annual message of the President." Here the power is expressly granted upon the condition that the government of Paraguay shall refuse to render this "just satisfaction." In this and other similar cases Congress have conferred upon the President power in advance to employ the army and navy upon the happening of contingent future events; and this most certainly is embraced within the power to declare war.

Now, if this conditional and contingent power could be constitutionally conferred upon the President in the case of Paraguay, why may it not be conferred for the purpose of protecting the lives and property of American citizens in the event that they may be violently and unlawfully attacked in passing over the transit routes to and from California, or assailed by the seizure of their vessels in a foreign port? To deny this power is to render the navy in a great degree useless for the protection of the lives and property of American citizens in countries where neither protection nor redress can be otherwise obtained.

The thirty-fifth Congress terminated on the 3d of March, 1859, without having passed the "act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1860." This act also contained an appropriation "to supply deficiencies in the revenue of the Post Office Department for the year ending 30th June, 1859." I believe this is the first instance since the origin of the federal government, now more than seventy years ago, when any Congress went out of existence without having passed all the general appropriation bills necessary to carry on the government until the regular period for the meeting of a new Congress. This event imposed on the Executive a grave responsibility. It presented a choice of evils.

Had this omission of duty occurred at the first session of the last Congress, the remedy would have been plain. I might then have instantly recalled them to complete their work, and this without expense to the government. But on the 4th of

March last there were fifteen of the thirty-three States which had not elected any representatives to the present Congress. Had Congress been called together immediately, these States would have been virtually disfranchised. If an intermediate period had been selected, several of the States would have been compelled to hold extra sessions of their legislatures, at great inconvenience and expense, to provide for elections at an earlier day than that previously fixed by law. In the regular course, ten of these States would not elect until after the beginning of August, and five of these ten not until October and November.

On the other hand, when I came to examine carefully the condition of the Post Office Department, I did not meet as many or as great difficulties as I had apprehended. Had the bill which failed been confined to appropriations for the fiscal year ending on the 30th June next, there would have been no reason of pressing importance for the call of an extra session. Nothing would become due on contracts (those with railroad companies only excepted) for carrying the mail for the first quarter of the present fiscal year, commencing on the 1st of July, until the 1st of December—less than one week before the meeting of the present Congress. The reason is, that the mail contractors for this and the current year did not complete their first quarter's service until the 30th September last; and by the terms of their contracts sixty days more are allowed for the settlement of their accounts before the department could be called upon for payment.

The great difficulty and the great hardship consisted in the failure to provide for the payment of the deficiency in the fiscal year ending the 30th June, 1859. The department had entered into contracts, in obedience to existing laws, for the service of that fiscal year, and the contractors were fairly entitled to their compensation as it became due. The deficiency, as stated in the bill, amounted to \$3,838,728; but, after a careful settlement of all these accounts, it has been ascertained that it amounts to \$4,296,009. With the scanty means at his command, the Postmaster General has managed to pay that portion of this deficiency which occurred in the first two quarters of the past fiscal year ending on the 31st December last.

In the mean time, the contractors themselves, under these trying circumstances, have behaved in a manner worthy of all commendation. They had one resource in the midst of their embarrassments. After the amount due to each of them had been ascertained, and finally settled according to law, this became a specific debt of record against the United States, which enabled them to borrow money on this unquestionable security. Still, they were obliged to pay interest, in consequence of the default of Congress, and, on every principle of justice, ought to receive interest from the government. This interest should commence from the date when a warrant would have issued for the payment of the principal, had an appropriation been made for this purpose. Calculated up to the 1st December, it will not exceed \$96,660—a sum not to be taken into account when contrasted with the great difficulties and embarrassments of a public and private character, both to the people and the States, which would have resulted from convening and holding a special session of Congress.

For these reasons, I recommend the passage of a bill, at as early a day as may be practicable, to provide for the payment of the amount, with interest, due to these last-mentioned contractors, as well as to make the necessary appropriations for the service of the Post Office Department for the current fiscal year.

The failure to pass the post office bill necessarily gives birth to serious reflections. Congress, by refusing to pass the general appropriation bills necessary to carry on the government, may not only arrest its action, but might even destroy its existence. The army, the navy, the judiciary, in short, every department of the government, can no longer perform their functions if Congress refuse the money necessary for their support. If this failure should teach the country the necessity of electing a full Congress in sufficient time to enable the President to convene them in any emergency, even immediately after the old Congress has expired, it will have been productive of great good. In a time of sudden and alarming danger, foreign or domestic, which all nations must expect to encounter in their progress, the very salvation of our institutions may be staked upon the assembling of Congress without

delay. If, under such circumstances, the President should find himself in the condition in which he was placed at the close of the last Congress, with nearly half the States of the Union destitute of representatives, the consequences might be disastrous. I therefore recommend to Congress to carry into effect the provisions of the Constitution on this subject, and to pass a law appointing some day previous to the 4th March in each year of odd number for the election of representatives throughout all the States. They have already appointed a day for the election of electors for President and Vice President, and this measure has been approved by the country.

I would again express a most decided opinion in favor of the construction of a Pacific railroad, for the reasons stated in my two last annual messages. When I reflect upon what would be the defenceless condition of our States and Territories west of the Rocky mountains in case of a war with a naval power sufficiently strong to interrupt all intercourse with them by the routes across the isthmus, I am still more convinced than ever of the vast importance of this railroad. I have never doubted the constitutional competency of Congress to provide for its construction, but this exclusively under the war-making power. Besides, the Constitution expressly requires, as an imperative duty, that "the United States shall protect each of them [the States] against invasion." I am at a loss to conceive how this protection can be afforded to California and Oregon against such a naval power by any other means. I repeat the opinion contained in my last annual message, that it would be inexpedient for the government to undertake this great work by agents of its own appointment, and under its direct and exclusive control. This would increase the patronage of the Executive to a dangerous extent, and would foster a system of jobbing and corruption which no vigilance on the part of federal officials could prevent. The construction of this road ought, therefore, to be intrusted to incorporated companies, or other agencies, who would exercise that active and vigilant supervision over it which can be inspired alone by a sense of corporate and individual interest. I venture to assert that the additional cost of transporting troops, munitions of war, and necessary supplies for the army

across the vast intervening plains to our possessions on the Pacific coast would be greater in such a war than the whole amount required to construct the road. And yet this resort would, after all, be inadequate for their defence and protection.

We have yet scarcely recovered from the habits of extravagant expenditure produced by our overflowing treasury during several years prior to the commencement of my administration. The financial reverses which we have since experienced ought to teach us all to scrutinize our expenditures with the greatest vigilance, and to reduce them to the lowest possible point. The executive departments of the government have devoted themselves to the accomplishment of this object with considerable success, as will appear from their different reports and estimates. To these I invite the scrutiny of Congress, for the purpose of reducing them still lower, if this be practicable, consistent with the great public interests of the country. In aid of the policy of retrenchment, I pledge myself to examine closely the bills appropriating lands or money, so that if any of these should inadvertently pass both houses, as must sometimes be the case, I may afford them an opportunity for reconsideration. At the same time we ought never to forget that true public economy consists, not in withholding the means necessary to accomplish important national objects confided to us by the Constitution, but in taking care that the money appropriated for these purposes shall be faithfully and frugally expended.

It will appear from the report of the Secretary of the Treasury that it is extremely doubtful, to say the least, whether we shall be able to pass through the present and the next fiscal year without providing additional revenue. This can only be accomplished by strictly confining the appropriations within the estimates of the different departments, without making an allowance for any additional expenditures which Congress may think proper, in their discretion, to authorize, and without providing for the redemption of any portion of the \$20,000,000 of treasury notes which have been already issued. In the event of a deficiency, which I consider probable, this ought never to be supplied by a resort to addi-

tional loans. It would be a ruinous practice in the days of peace and prosperity to go on increasing the national debt to meet the ordinary expenses of the government. This policy would cripple our resources and impair our credit in case the existence of war should render it necessary to borrow money. Should such a deficiency occur as I apprehend, I would recommend that the necessary revenue be raised by an increase of our present duties on imports. I need not repeat the opinions expressed in my last annual message as to the best mode and manner of accomplishing this object, and shall now merely observe that these have since undergone no change.

The Report of the Secretary of the Treasury will explain in detail the operations of that department of the government.

The receipts into the treasury from all sources during the fiscal year ending June 30, 1859, including the loan authorized by the act of June 14, 1858, and the issues of treasury notes authorized by existing laws, were eighty-one million six hundred and ninety-two thousand four hundred and seventy-one dollars and one cent, (\$81,692,471 01,) which sum, with the balance of six million three hundred and ninety-eight thousand three hundred and sixteen dollars and ten cents (\$6,398,316 10) remaining in the treasury at the commencement of that fiscal year, made an aggregate for the service of the year of eighty-eight million ninety thousand seven hundred and eighty-seven dollars and eleven cents, (\$88,090,787 11.)

The public expenditures during the fiscal year ending June 30, 1859, amounted to eighty-three million seven hundred and fifty-one thousand five hundred and eleven dollars and fifty-seven cents, (\$83,751,511 57.) Of this sum seventeen million four hundred and five thousand two hundred and eighty-five dollars and forty-four cents (\$17,405,285 44) were applied to the payment of interest on the public debt and the redemption of the issues of treasury notes. The expenditures for all other branches of the public service during that fiscal year were, therefore, sixty-six million three hundred and forty-six thousand two hundred and twenty-six dollars and thirteen cents, (\$66,346,226 13.)

The balance remaining in the treasury on the 1st July, 1859, being the commencement of the present fiscal year, was four

million three hundred and thirty-nine thousand two hundred and seventy-five dollars and fifty-four cents, (\$4,339,275 54.)

The receipts into the treasury during the first quarter of the present fiscal year, commencing July 1, 1859, were twenty million six hundred and eighteen thousand eight hundred and sixty-five dollars and eighty-five cents, (\$20,618,865 85.) Of this amount three million eight hundred and twenty-one thousand three hundred dollars (\$3,821,300) was received on account of the loan and the issue of treasury notes—the amount of sixteen million seven hundred and ninety-seven thousand five hundred and sixty-five dollars and eighty-five cents (\$16,797,565 85) having been received during the quarter from the ordinary sources of public revenue. The estimated receipts for the remaining three-quarters of the present fiscal year to June 30, 1860, are fifty million four hundred and twenty-six thousand four hundred dollars, (\$50,426,400.) Of this amount it is estimated that five million seven hundred and fifty-six thousand four hundred dollars (\$5,756,400) will be received for treasury notes which may be reissued under the fifth section of the act of 3d March last, and one million one hundred and seventy thousand dollars (\$1,170,000) on account of the loan authorized by the act of June 14, 1858—making six million nine hundred and twenty-six thousand four hundred dollars (\$6,926,400) from these extraordinary sources, and forty-three million five hundred thousand dollars (\$43,500,000) from the ordinary sources of the public revenue—making an aggregate, with the balance in the treasury on the 1st July, 1859, of seventy-five million three hundred and eighty-four thousand five hundred and forty-one dollars and eighty-nine cents (\$75,384,541 89) for the estimated means of the present fiscal year ending June 30, 1860.

The expenditures during the first quarter of the present fiscal year were twenty million seven thousand one hundred and seventy-four dollars and seventy-six cents, (\$20,007,174 76.) Four million six hundred and sixty-four thousand three hundred and sixty-six dollars and seventy-six cents (\$4,664,366 76) of this sum were applied to the payment of interest on the public debt and the redemption of the issues of treasury notes, and the remainder, being fifteen million

three hundred and forty-two thousand eight hundred and eight dollars, (\$15,342,808,) were applied to ordinary expenditures during the quarter. The estimated expenditures during the remaining three quarters, to June 30, 1860, are forty million nine hundred and ninety-five thousand five hundred and fifty-eight dollars and twenty-three cents, (\$40,995,558 23.) Of which sum two million eight hundred and eighty-six thousand six hundred and twenty-one dollars and thirty-four cents (\$2,886,621 34) are estimated for the interest on the public debt. The ascertained and estimated expenditures for the fiscal year ending June 30, 1860, on account of the public debt, are accordingly seven million five hundred and fifty thousand nine hundred and eighty-eight dollars and ten cents, (\$7,550,988 10;) and for the ordinary expenditures of the government fifty-three million four hundred and fifty-one thousand seven hundred and forty-four dollars and eighty-nine cents, (\$53,451,744 89,) making an aggregate of sixty-one million two thousand seven hundred and thirty-two dollars and ninety-nine cents, (\$61,002,732 99;) leaving an estimated balance in the treasury on June 30, 1860, of fourteen million three hundred and eighty-one thousand eight hundred and eight dollars and forty cents, (\$14,381,808 40.)

The estimated receipts during the next fiscal year ending June 30, 1861, are sixty-six million two hundred and twenty-five thousand dollars, (\$66,225,000,) which, with the balance estimated, as before stated, as remaining in the treasury on the 30th June, 1860, will make an aggregate for the service of the next fiscal year of eighty million six hundred and six thousand eight hundred and eight dollars and forty cents, (\$80,606,808 40.)

The estimated expenditures during the next fiscal year ending 30th June, 1861, are sixty-six million seven hundred and fourteen thousand nine hundred and twenty-eight dollars and seventy-nine cents, (\$66,714,928 79.) Of this amount three million three hundred and eighty-six thousand six hundred and twenty-one dollars and thirty-four cents (\$3,386,621 34) will be required to pay the interest on the public debt, leaving the sum of sixty-three million three hundred and twenty-eight thousand three hundred and seven dollars and forty-five cents

(\$63,328,307 45) for the estimated ordinary expenditures during the fiscal year ending 30th June, 1861. Upon these estimates a balance will be left in the treasury on the 30th June, 1861, of thirteen million eight hundred and ninety-one thousand eight hundred and seventy-nine dollars and sixty-one cents, (\$13,891,879 61.)

But this balance, as well as that estimated to remain in the treasury on the 1st July, 1860, will be reduced by such appropriations as shall be made by law to carry into effect certain Indian treaties during the present fiscal year, asked for by the Secretary of the Interior, to the amount of five hundred and thirty-nine thousand three hundred and fifty dollars, (\$539,350 ;) and upon the estimates of the Postmaster General for the service of his department the last fiscal year ending 30th June, 1859, amounting to four million two hundred and ninety-six thousand and nine dollars, (\$4,296,009,) together with the further estimate of that officer for the service of the present fiscal year ending 30th June, 1860, being five million five hundred and twenty-six thousand three hundred and twenty-four dollars, (\$5,526,324)—making an aggregate of ten million three hundred and sixty-one thousand six hundred and eighty-three dollars, (\$10,361,683.)

Should these appropriations be made as requested by the proper departments, the balance in the treasury on the 30th June, 1861, will not, it is estimated, exceed three million five hundred and thirty thousand one hundred and ninety-six dollars and sixty-one cents, (\$3,530,196 61.)

I transmit herewith the reports of the Secretaries of War, of the Navy, of the Interior, and of the Postmaster General. They each contain valuable information and important recommendations well worthy of the serious consideration of Congress.

It will appear from the report of the Secretary of War that the army expenditures have been materially reduced by a system of rigid economy, which, in his opinion, offers every guarantee that the reduction will be permanent. The estimates of the department for the next have been reduced nearly two millions of dollars below the estimates for the present fiscal year, and half a million of dollars below the amount granted for this year at the last session of Congress.

The expenditures of the Post Office Department during the past fiscal year, ending on the 30th June, 1859, exclusive of payments for mail service, specially provided for by Congress out of the general treasury, amounted to \$14,964,493 33, and its receipts to \$7,968,484 07, showing a deficiency to be supplied from the treasury of \$6,996,009 26, against \$5,235,677 15 for the year ending 30th June, 1858. The increased cost of transportation, growing out of the expansion of the service required by Congress, explains this rapid augmentation of the expenditures. It is gratifying, however, to observe an increase of receipts for the year ending on the 30th of June, 1859, equal to \$481,691 21, compared with those in the year ending on the 30th June, 1858.

It is estimated that the deficiency for the current fiscal year will be \$5,988,424 04, but that for the year ending 30th June, 1861, it will not exceed \$1,342,473 90, should Congress adopt the measures of reform proposed and urged by the Postmaster General. Since the month of March retrenchments have been made in the expenditures amounting to \$1,826,471 annually, which, however, did not take effect until after the commencement of the present fiscal year. The period seems to have arrived for determining the question whether this department shall become a permanent and ever increasing charge upon the treasury or shall be permitted to resume the self-sustaining policy which had so long controlled its administration. The course of legislation recommended by the Postmaster General for the relief of the department from its present embarrassments, and for restoring it to its original independence, is deserving of your early and earnest consideration.

In conclusion, I would again commend to the just liberality of Congress the local interests of the District of Columbia. Surely the city bearing the name of Washington, and destined, I trust, for ages to be the capital of our united, free, and prosperous confederacy, has strong claims on our favorable regard.

JAMES BUCHANAN.

WASHINGTON CITY, *December 19, 1859.*

ANNUAL MESSAGE TO THE TWO HOUSES OF
CONGRESS AT THE COMMENCEMENT OF
THE SECOND SESSION OF THE
THIRTY-SIXTH CONGRESS.

Great material prosperity of the nation in the past year.—Why, then, discontent, and the Union, source of all these blessings, threatened with destruction?—Long continued interference by the North with slavery in the Southern States, and the formation of hostile geographical parties the cause.—Apprehension of servile insurrections and danger to the family in Southern homes must imperil the Union.—The question of slavery in the States should be left to them.—As sovereign States they alone are responsible before God and the world.—The election of no man a just cause for dissolving the Union.—Only a deliberate, palpable, and dangerous exercise of powers not granted by the Constitution a sufficient cause.—Apprehensions of future danger no sufficient reason.—Factionous questioning of the correctness of the Supreme Court's decision.—Acts of State Legislatures to defeat the fugitive slave law unconstitutional and void.—Admitting the right of revolution, secession as a Constitutional remedy denied.—Wholly inconsistent with the history and character of the Constitution.—The doctrine of secession refuted by General Jackson in his message of 16th January, 1833.—The Government of the United States operates directly on persons and things, and has at its command a physical force for executing its powers, and was intended to be perpetual.—It acts directly upon all the people within the limits of the Union, and executes its own laws without the agency of the States.—Its framers never intended to implant in its bosom the seeds of its own destruction.—The Act of Congress of 28th February, 1795, and 3d March, 1807, insufficient without further legislation to enable the President to enforce the laws in seceding States.—The President submits the whole question to Congress for its action.—He finds no power delegated to Congress by the Constitution to declare a war against a State as such.—The President urges an amendment to the Constitution to settle the slavery question beyond dispute for all time.—Our relations with Great Britain most satisfactory.—Amicable settlement of the Clayton and Bulwer treaty question and the question of the right of search.—Disputed title to the Island of San Juan still under negotiation.—Recent visit of the Prince of Wales to the United States.—France.—The right of expatriation recognized by her.—Russia.—Our relations with Spain more complicated but less dangerous than for many years.—Claims of our citizens admitted.—The President reiterates his recommendation of the acquisition of Cuba by fair purchase, and

cites the sale of Louisiana by France.—China.—There will be a surplus of \$200,000 over all just claims of our citizens.—Recommends that this sum be appropriated to some benevolent object in which the Chinese may be specially interested.—Ratification of our treaty with Japan.—Brazil.—Ratification of treaty with New Granada.—Treaty with Costa Rica.—Nicaragua.—Our relations with Mexico still most unsatisfactory.—The President recommended such measures in regard to Mexico as would deprive European governments of any pretext to interfere in the territorial or domestic concerns of Mexico.—Treaty negotiated with the constitutional Government of that country.—Review of Kansas affairs.—Peace in Utah.

Finances of the Government.—With economy sixty-one or at most sixty-two million dollars ample to administer the Government and pay the interest on the public debt.—No more slaves imported and no more military expeditions set on foot against peaceful nations.—The President renews his recommendation of Pacific Railroad and other measures.—Recommends a law appointing a day certain previous to 4th March in each year of an odd number for the election of representatives in all the States.—Modification of tariff to increase revenue needed.—Specific rather than *ad valorem* duties urged.—Reports of Departments.—Cornelius Vanderbilt.—Land claims in California.—Famine in Kansas, relief urged.—District of Columbia.

Fellow-citizens of the Senate and House of Representatives :

Throughout the year since our last meeting, the country has been eminently prosperous in all its material interests. The general health has been excellent, our harvests have been abundant, and plenty smiles throughout the land. Our commerce and manufactures have been prosecuted with energy and industry, and have yielded fair and ample returns. In short, no nation in the tide of time has ever presented a spectacle of greater material prosperity than we have done, until within a very recent period.

Why is it, then, that discontent now so extensively prevails, and the union of the States, which is the source of all these blessings is threatened with destruction ?

The long continued and intemperate interference of the northern people with the question of slavery in the southern States has at length produced its natural effects. The different sections of the Union are now arrayed against each other, and the time has arrived, so much dreaded by the Father of his Country, when hostile geographical parties have been formed.

I have long foreseen, and often forewarned my countrymen of the now impending danger. This does not proceed solely from the claim on the part of Congress or the territorial legislatures to exclude slavery from the Territories, nor from the efforts of different States to defeat the execution of the fugitive slave law. All or any of these evils might have been endured by the South, without danger to the Union, (as others have been,) in the hope that time and reflection might apply the remedy. The immediate peril arises, not so much from these causes, as from the fact that the incessant and violent agitation of the slavery question throughout the North for the last quarter of a century has at length produced its malign influence on the slaves, and inspired them with vague notions of freedom. Hence a sense of security no longer exists around the family altar. This feeling of peace at home has given place to apprehensions of servile insurrections. Many a matron throughout the South retires at night in dread of what may befall herself and her children before the morning. Should this apprehension of domestic danger, whether real or imaginary extend, and intensify itself, until it shall pervade the masses of the southern people, then disunion will become inevitable. Self-preservation is the first law of nature, and has been implanted in the heart of man by his Creator, for the wisest purpose ; and no political union, however fraught with blessings and benefits in all other respects, can long continue, if the necessary consequence be to render the homes and the firesides of nearly half the parties to it habitually and hopelessly insecure. Sooner or later the bonds of such a Union must be severed. It is my conviction that this fatal period has not yet arrived ; and my prayer to God is, that he would preserve the Constitution and the Union throughout all generations.

But let us take warning in time, and remove the cause of danger. It cannot be denied that for five and twenty years the agitation at the North against slavery has been incessant. In 1835, pictorial hand-bills and inflammatory appeals were circulated extensively throughout the South of a character to excite the passions of the slaves, and, in the language of General Jackson, " to stimulate them to insurrection and produce

all the horrors of a servile war." This agitation has ever since been continued by the public press, by the proceedings of State and county conventions, and by abolition sermons and lectures. The time of Congress has been occupied in violent speeches on this never-ending subject ; and appeals, in pamphlet and other forms, indorsed by distinguished names, have been sent forth from this central point and spread broadcast over the Union.

How easy would it be for the American people to settle the slavery question forever, and to restore peace and harmony to this distracted country ! They, and they alone, can do it. All that is necessary to accomplish the object, and all for which the slave States have ever contended, is to be let alone and permitted to manage their domestic institutions in their own way. As sovereign States, they and they alone are responsible before God and the world for the slavery existing among them. For this the people of the North are not more responsible, and have no more right to interfere, than with similar institutions in Russia or in Brazil.

Upon their good sense and patriotic forbearance, I confess, I still greatly rely. Without their aid it is beyond the power of any President, no matter what may be his own political proclivities, to restore peace and harmony among the States. Wisely limited and restrained as is his power under our Constitution and laws, he alone can accomplish but little for good or for evil on such a momentous question.

And this brings me to observe, that the election of any one of our fellow-citizens to the office of President does not of itself afford just cause for dissolving the Union. This is more especially true if his election has been effected by a mere plurality and not a majority of the people, and has resulted from transient and temporary causes, which may probably never again occur. In order to justify a resort to revolutionary resistance the federal government must be guilty of "a deliberate, palpable, and dangerous exercise" of powers not granted by the Constitution. The late presidential election, however, has been held in strict conformity with its express provisions. How, then, can the result justify a revolution to destroy this very Constitution ? Reason, justice, a regard for the Consti-

tution, all require that we shall wait for some overt and dangerous act on the part of the President elect, before resorting to such a remedy. It is said, however, that the antecedents of the President elect have been sufficient to justify the fears of the South that he will attempt to invade their constitutional rights. But are such apprehensions of contingent danger in the future sufficient to justify the immediate destruction of the noblest system of government ever devised by mortals? From the very nature of his office, and its high responsibilities, he must necessarily be conservative. The stern duty of administering the vast and complicated concerns of this government affords in itself a guarantee that he will not attempt any violation of a clear constitutional right.

After all, he is no more than the chief executive officer of the government. His province is not to make but to execute the laws; and it is a remarkable fact in our history that, notwithstanding the repeated efforts of the anti-slavery party, no single act has ever passed Congress, unless we may possibly except the Missouri compromise, impairing in the slightest degree the rights of the South to their property in slaves. And it may also be observed, judging from present indications, that no probability exists of the passage of such an act by a majority of both houses, either in the present or the next Congress. Surely, under these circumstances we ought to be restrained from present action by the precept of Him who spake as man never spake that "sufficient unto the day is the evil thereof." The day of evil may never come unless we shall rashly bring it upon ourselves.

It is alleged as one cause for immediate secession, that the southern States are denied equal rights with the other States in the common Territories. But by what authority are these denied? Not by Congress, which has never passed, and I believe never will pass, any act to exclude slavery from these Territories. And certainly not by the Supreme Court, which has solemnly decided that slaves are property, and like all other property their owners have a right to take them into the common Territories and hold them there under the protection of the Constitution.

So far then as Congress is concerned the objection is not to

anything they have already done, but to what they may do hereafter. It will surely be admitted that this apprehension of future danger is no good reason for an immediate dissolution of the Union. It is true that the territorial legislature of Kansas on the 23d February, 1860, passed in great haste an act over the veto of the governor, declaring that slavery "is and shall be forever prohibited in this Territory." Such an act, however, plainly violating the rights of property secured by the Constitution, will surely be declared void by the judiciary, whenever it shall be presented in a legal form.

Only three days after my inauguration the Supreme Court of the United States solemnly adjudged that this power did not exist in a territorial legislature. Yet such has been the factious temper of the times that the correctness of this decision has been extensively impugned before the people, and the question has given rise to angry political conflicts throughout the country. Those who have appealed from this judgment of our highest constitutional tribunal to popular assemblies, would, if they could, invest a territorial legislature with power to annul the sacred rights of property. This power Congress is expressly forbidden by the federal Constitution to exercise. Every State legislature in the Union is forbidden by its own constitution to exercise it. It cannot be exercised in any State except by the people in their highest sovereign capacity when framing or amending their State constitution. In like manner it can only be exercised by the people of a territory, represented in a convention of delegates, for the purpose of framing a constitution preparatory to admission as a State into the Union. Then and not until then, are they invested with power to decide the question whether slavery shall or shall not exist within their limits. This is an act of sovereign authority and not of subordinate territorial legislation. Were it otherwise, then indeed would the equality of the States in the Territories be destroyed and the rights of property in slaves would depend not upon the guarantees of the Constitution, but upon the shifting majorities of an irresponsible territorial legislature. Such a doctrine, from its intrinsic unsoundness, cannot long influence any considerable portion of our people, much less can it afford a good reason for a dissolution of the Union.

The most palpable violations of constitutional duty which have yet been committed consist in the acts of different State legislatures to defeat the execution of the fugitive slave law. It ought to be remembered, however, that for these acts neither Congress nor any President can justly be held responsible. Having been passed in violation of the federal Constitution, they are therefore null and void. All the courts, both State and national, before whom the question has arisen, have, from the beginning, declared the fugitive slave law to be constitutional. The single exception is that of a State court in Wisconsin; and this has not only been reversed by the proper appellate tribunal, but has met with such universal reprobation, that there can be no danger from it as a precedent. The validity of this law has been established over and over again by the Supreme Court of the United States with perfect unanimity. It is founded upon an express provision of the Constitution, requiring that fugitive slaves who escape from service in one State to another shall be "delivered up" to their masters. Without this provision it is a well known historical fact that the Constitution itself could never have been adopted by the convention. In one form or other under the acts of 1793 and 1850, both being substantially the same, the fugitive slave law has been the law of the land from the days of Washington until the present moment. Here, then, a clear case is presented, in which it will be the duty of the next President, as it has been my own, to act with vigor in executing this supreme law against the conflicting enactments of State legislatures. Should he fail in the performance of this high duty, he will then have manifested a disregard of the Constitution and laws, to the great injury of the people of nearly one half of the States of the Union. But are we to presume in advance that he will thus violate his duty? This would be at war with every principle of justice and of Christian charity. Let us wait for the overt act. The fugitive slave law has been carried into execution in every contested case since the commencement of the present administration; though often, it is to be regretted, with great loss and inconvenience to the master, and with considerable expense to the government. Let us trust that the State legisla-

tures will repeal their unconstitutional and obnoxious enactments. Unless this shall be done without unnecessary delay, it is impossible for any human power to save the Union.

The southern States, standing on the basis of the Constitution, have a right to demand this act of justice from the States of the North. Should it be refused, then the Constitution, to which all the States are parties, will have been wilfully violated by one portion of them in a provision essential to the domestic security and happiness of the remainder. In that event, the injured States, after having first used all peaceful and constitutional means to obtain redress, would be justified in revolutionary resistance to the government of the Union.

I have purposely confined my remarks to revolutionary resistance, because it has been claimed within the last few years that any State, whenever this shall be its sovereign will and pleasure, may secede from the Union in accordance with the Constitution, and without any violation of the constitutional rights of the other members of the Confederacy. That as each became parties to the Union by the vote of its own people assembled in convention, so any one of them may retire from the Union in a similar manner by the vote of such a convention.

In order to justify secession as a constitutional remedy it must be on the principle that the federal government is a mere voluntary association of States, to be dissolved at pleasure by any one of the contracting parties. If this be so, the Confederacy is a rope of sand, to be penetrated and dissolved by the first adverse wave of public opinion in any of the States. In this manner our thirty-three States may resolve themselves into as many petty, jarring, and hostile republics, each one retiring from the Union without responsibility whenever any sudden excitement might impel them to such a course. By this process a Union might be entirely broken into fragments in a few weeks which cost our forefathers many years of toil, privation, and blood to establish.

Such a principle is wholly inconsistent with the history as well as the character of the federal Constitution. After it was framed with the greatest deliberation and care it was submitted to conventions of the people of the several States for

ratification. Its provisions were discussed at length in these bodies, composed of the first men of the country. Its opponents contended that it conferred powers upon the federal government dangerous to the rights of the States, whilst its advocates maintained that, under a fair construction of the instrument, there was no foundation for such apprehensions. In that mighty struggle between the first intellects of this or any other country it never occurred to any individual, either among its opponents or advocates, to assert or even to intimate that their efforts were all vain labor, because the moment that any State felt herself aggrieved she might secede from the Union. What a crushing argument would this have proved against those who dreaded that the rights of the States would be endangered by the Constitution. The truth is, that it was not until many years after the origin of the federal government that such a proposition was first advanced. It was then met and refuted by the conclusive arguments of General Jackson, who, in his message of the 16th January, 1833, transmitting the nullifying ordinance of South Carolina to Congress, employs the following language: "The right of the people of a single State to absolve themselves at will and without the consent of the other States from their most solemn obligations, and hazard the liberty and happiness of the millions composing this Union, cannot be acknowledged. Such authority is believed to be utterly repugnant both to the principles upon which the general government is constituted, and to the objects which it was expressly formed to attain."

It is not pretended that any clause in the Constitution gives countenance to such a theory. It is altogether founded upon inference not from any language contained in the instrument itself, but from the sovereign character of the several States by which it was ratified. But is it beyond the power of a State, like an individual, to yield a portion of its sovereign rights to secure the remainder? In the language of Mr. Madison, who has been called the father of the Constitution, "It was formed by the States—that is, by the people in each of the States acting in their highest sovereign capacity, and formed consequently by the same authority which formed the State constitutions." "Nor is the government of the United

States, created by the Constitution, less a government, in the strict sense of the term, within the sphere of its powers, than the governments created by the constitutions of the States are within their several spheres. It is, like them, organized into legislative, executive, and judiciary departments. It operates, like them, directly on persons and things ; and, like them, it has at command a physical force for executing the powers committed to it."

It was intended to be perpetual, and not to be annulled at the pleasure of any one of the contracting parties. The old articles of confederation were entitled "Articles of confederation and perpetual union between the States ;" and by the thirteenth article it is expressly declared that "the articles of this confederation shall be inviolably observed by every State, and the union shall be perpetual." The preamble to the Constitution of the United States having express reference to the articles of confederation, recites that it was established "in order to form a more perfect union." And yet it is contended that this "more perfect union" does not include the essential attribute of perpetuity.

But that the union was designed to be perpetual, appears conclusively from the nature and extent of the powers conferred by the Constitution on the federal government. These powers embrace the very highest attributes of national sovereignty. They place both the sword and the purse under its control. Congress has power to make war and to make peace ; to raise and support armies and navies, and to conclude treaties with foreign governments. It is invested with the power to coin money, and to regulate the value thereof, and to regulate commerce with foreign nations and among the several States. It is not necessary to enumerate the other high powers which have been conferred upon the federal government. In order to carry the enumerated powers into effect, Congress possesses the exclusive right to lay and collect duties on imports, and, in common with the States, to lay and collect all other taxes.

But the Constitution has not only conferred these high powers upon Congress, but it has adopted effectual means to restrain the States from interfering with their exercise. For

that purpose it has in strong prohibitory language expressly declared that "no State shall enter into any treaty, alliance, or confederation ; grant letters of marque and reprisal ; coin money ; emit bills of credit ; make anything but gold and silver coin a tender in payment of debts ; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts." Moreover, "without the consent of Congress no State shall lay any imposts or duties on any imports or exports, except what may be absolutely necessary for executing its inspection laws," and if they exceed this amount, the excess shall belong to the United States. And "no State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign Power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay."

In order still further to secure the uninterrupted exercise of these high powers against State interposition, it is provided "that this Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land ; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

The solemn sanction of religion has been superadded to the obligations of official duty, and all senators and representatives of the United States, all members of State legislatures, and all executive and judicial officers, "both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

In order to carry into effect these powers, the Constitution has established a perfect government in all its forms, legislative, executive, and judicial ; and this government to the extent of its powers acts directly upon the individual citizens of every State, and executes its own decrees by the agency of its own officers. In this respect it differs entirely from the government under the old confederation, which was confined to making requisitions on the States in their sovereign character.

This left it in the discretion of each whether to obey or to refuse, and they often declined to comply with such requisitions. It thus became necessary for the purpose of removing this barrier, and, "in order to form a more perfect union," to establish a government which could act directly upon the people and execute its own laws without the intermediate agency of the States. This has been accomplished by the Constitution of the United States. In short, the government created by the Constitution, and deriving its authority from the sovereign people of each of the several States, has precisely the same right to exercise its power over the people of all these States in the enumerated cases, that each one of them possesses over subjects not delegated to the United States, but "reserved to the States respectively or to the people."

To the extent of the delegated powers the Constitution of the United States is as much a part of the constitution of each State, and is as binding upon its people, as though it had been textually inserted therein.

This government therefore is a great and powerful government, invested with all the attributes of sovereignty over the special subjects to which its authority extends. Its framers never intended to implant in its bosom the seeds of its own destruction, nor were they at its creation guilty of the absurdity of providing for its own dissolution. It was not intended by its framers to be the baseless fabric of a vision, which, at the touch of the enchanter, would vanish into thin air, but a substantial and mighty fabric, capable of resisting the slow decay of time, and of defying the storms of ages. Indeed, well may the jealous patriots of that day have indulged fears that a government of such high powers might violate the reserved rights of the States, and wisely did they adopt the rule of a strict construction of these powers to prevent the danger. But they did not fear, nor had they any reason to imagine that the Constitution would ever be so interpreted as to enable any State by her own act, and without the consent of her sister States, to discharge her people from all or any of their federal obligations.

It may be asked, then, are the people of the States without redress against the tyranny and oppression of the federal gov-

ernment? By no means. The right of resistance on the part of the governed against the oppression of their governments cannot be denied. It exists independently of all constitutions, and has been exercised at all periods of the world's history. Under it, old governments have been destroyed and new ones have taken their place. It is embodied in strong and express language in our own Declaration of Independence. But the distinction must ever be observed that this is revolution against an established government, and not a voluntary secession from it by virtue of an inherent constitutional right. In short, let us look the danger fairly in the face; secession is neither more nor less than revolution. It may or it may not be a justifiable revolution; but still it is revolution.

What, in the mean time, is the responsibility and true position of the Executive? He is bound by solemn oath, before God and the country, "to take care that the laws be faithfully executed," and from this obligation he cannot be absolved by any human power. But what if the performance of this duty, in whole or in part, has been rendered impracticable by events over which he could have exercised no control? Such, at the present moment, is the case throughout the State of South Carolina, so far as the laws of the United States to secure the administration of justice by means of the federal judiciary are concerned. All the federal officers within its limits, through whose agency alone these laws can be carried into execution, have already resigned. We no longer have a district judge, a district attorney, or a marshal in South Carolina. In fact, the whole machinery of the federal government necessary for the distribution of remedial justice among the people has been demolished, and it would be difficult, if not impossible, to replace it.

The only acts of Congress on the statute book bearing upon this subject are those of the 28th February, 1795, and 3d March, 1807. These authorize the President, after he shall have ascertained that the marshal, with his *posse comitatus*, is unable to execute civil or criminal process in any particular case, to call forth the militia and employ the army and navy to aid him in performing this service, having first by proclamation commanded the insurgents "to disperse and retire

peaceably to their respective abodes within a limited time." This duty cannot by possibility be performed in a State where no judicial authority exists to issue process, and where there is no marshal to execute it, and where, even if there were such an officer, the entire population would constitute one solid combination to resist him.

The bare enumeration of these provisions proves how inadequate they are without further legislation to overcome a united opposition in a single State, not to speak of other States who may place themselves in a similar attitude. Congress alone has power to decide whether the present laws can or cannot be amended so as to carry out more effectually the objects of the Constitution.

The same insuperable obstacles do not lie in the way of executing the laws for the collection of the customs. The revenue still continues to be collected, as heretofore, at the custom-house in Charleston, and should the collector unfortunately resign a successor may be appointed to perform this duty.

Then, in regard to the property of the United States in South Carolina. This has been purchased for a fair equivalent, "by the consent of the legislature of the State," "for the erection of forts, magazines, arsenals," &c., and over these the authority "to exercise exclusive legislation," has been expressly granted by the Constitution to Congress. It is not believed that any attempt will be made to expel the United States from this property by force; but if in this I should prove to be mistaken, the officer in command of the forts has received orders to act strictly on the defensive. In such a contingency the responsibility for consequences would rightfully rest upon the heads of the assailants.

Apart from the execution of the laws, so far as this may be practicable, the Executive has no authority to decide what shall be the relations between the federal government and South Carolina. He has been invested with no such discretion. He possesses no power to change the relations heretofore existing between them, much less to acknowledge the independence of that State. This would be to invest a mere executive officer with the power of recognizing the dissolution

of the Confederacy among our thirty-three sovereign States. It bears no resemblance to the recognition of a foreign *de facto* government, involving no such responsibility. Any attempt to do this would, on his part, be a naked act of usurpation. It is, therefore, my duty to submit to Congress the whole question in all its bearings. The course of events is so rapidly hastening forward that the emergency may soon arise when you may be called upon to decide the momentous question whether you possess the power, by force of arms, to compel a State to remain in the Union. I should feel myself recreant to my duty were I not to express an opinion on this important subject.

The question fairly stated is : Has the Constitution delegated to Congress the power to coerce a State into submission which is attempting to withdraw or has actually withdrawn from the Confederacy ? If answered in the affirmative, it must be on the principle that the power has been conferred upon Congress to declare and to make war against a State. After much serious reflection, I have arrived at the conclusion that no such power has been delegated to Congress or to any other department of the federal government. It is manifest, upon an inspection of the Constitution, that this is not among the specific and enumerated powers granted to Congress ; and it is equally apparent that its exercise is not " necessary and proper for carrying into execution " any one of these powers. So far from this power having been delegated to Congress, it was expressly refused by the convention which framed the Constitution.

It appears from the proceedings of that body that on the 31st May, 1787, the clause "*authorizing an exertion of the force of the whole against a delinquent State*" came up for consideration. Mr. Madison opposed it in a brief, but powerful speech, from which I shall extract but a single sentence. He observed : " The use of force against a State would look more like a declaration of war than an infliction of punishment, and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound. " Upon his motion the clause was unanimously postponed, and was never, I believe, again presented. Soon afterwards, on

the 8th June, 1787, when incidentally adverting to the subject, he said : " Any government for the United States, formed on the supposed practicability of using force against the unconstitutional proceedings of the States, would prove as visionary and fallacious as the government of Congress," evidently meaning the then existing Congress of the old confederation.

Without descending to particulars, it may be safely asserted that the power to make war against a State is at variance with the whole spirit and intent of the Constitution. Suppose such a war should result in the conquest of a State : how are we to govern it afterwards ? Shall we hold it as a province and govern it by despotic power ? In the nature of things, we could not, by physical force, control the will of the people and compel them to elect senators and representatives to Congress, and to perform all the other duties depending upon their own volition and required from the free citizens of a free State as a constituent member of the Confederacy.

But, if we possessed this power, would it be wise to exercise it under existing circumstances ? The object would doubtless be to preserve the Union. War would not only present the most effectual means of destroying it, but would banish all hope of its peaceable reconstruction. Besides, in the fraternal conflict a vast amount of blood and treasure would be expended, rendering future reconciliation between the States impossible. In the mean time, who can foretell what would be the sufferings and privations of the people during its existence ?

The fact is, that our Union rests upon public opinion, and can never be cemented by the blood of its citizens shed in civil war. If it cannot live in the affections of the people, it must one day perish. Congress possesses many means of preserving it by conciliation ; but the sword was not placed in their hand to preserve it by force.

But may I be permitted solemnly to invoke my countrymen to pause and deliberate, before they determine to destroy this, the grandest temple which has ever been dedicated to human freedom since the world began. It has been consecrated by the blood of our fathers, by the glories of the past,

and by the hopes of the future. The Union has already made us the most prosperous, and ere long will, if preserved, render us the most powerful nation on the face of the earth. In every foreign region of the globe the title of American citizen is held in the highest respect, and when pronounced in a foreign land it causes the hearts of our countrymen to swell with honest pride. Surely, when we reach the brink of the yawning abyss we shall recoil with horror from the last fatal plunge.

By such a dread catastrophe, the hopes of the friends of freedom throughout the world would be destroyed, and a long night of leaden despotism would enshroud the nations. Our example for more than eighty years would not only be lost, but it would be quoted as a conclusive proof that man is unfit for self-government.

It is not every wrong—nay, it is not every grievous wrong—which can justify a resort to such a fearful alternative. This ought to be the last desperate remedy of a despairing people, after every other constitutional means of conciliation had been exhausted. We should reflect that, under this free government, there is an incessant ebb and flow in public opinion. The slavery question, like everything human, will have its day. I firmly believe that it has reached and passed the culminating point. But if, in the midst of the existing excitement, the Union shall perish, the evil may then become irreparable.

Congress can contribute much to avert it, by proposing and recommending to the legislatures of the several States the remedy for existing evils which the Constitution has itself provided for its own preservation. This has been tried at different critical periods of our history, and always with eminent success. It is to be found in the fifth article, providing for its own amendment. Under this article amendments have been proposed by two thirds of both houses of Congress, and have been “ratified by the legislatures of three fourths of the several States,” and have consequently become parts of the Constitution. To this process the country is indebted for the clause prohibiting Congress from passing any law respecting an establishment of religion, or abridging the freedom of

speech or of the press, or of the right of petition. To this we are, also, indebted for the Bill of Rights, which secures the people against any abuse of power by the federal government. Such were the apprehensions justly entertained by the friends of State rights at that period as to have rendered it extremely doubtful whether the Constitution could have long survived without those amendments.

Again, the Constitution was amended by the same process, after the election of President Jefferson by the House of Representatives, in February, 1803. This amendment was rendered necessary to prevent a recurrence of the dangers, which had seriously threatened the existence of the government during the pendency of that election. The article for its own amendment was intended to secure the amicable adjustment of conflicting constitutional questions like the present, which might arise between the governments of the States and that of the United States. This appears from contemporaneous history. In this connection, I shall merely call attention to a few sentences in Mr. Madison's justly celebrated report, in 1799, to the legislature of Virginia. In this, he ably and conclusively defended the resolutions of the preceding legislature, against the strictures of several other State legislatures. These were mainly founded upon the protest of the Virginia legislature against the "alien and sedition acts," as "palpable and alarming infractions of the Constitution." In pointing out the peaceful and constitutional remedies—and he referred to none other—to which the States were authorized to resort on such occasions, he concludes by saying, "that the legislatures of the States might have made a direct representation to Congress, with a view to obtain a rescinding of the two offensive acts, or they might have represented to their respective senators in Congress, their wish that two thirds thereof would propose an explanatory amendment to the Constitution, or two thirds of themselves, if such had been their option, might by an application to Congress, have obtained a convention for the same object." This is the very course which I earnestly recommend, in order to obtain an "explanatory amendment" of the Constitution on the subject of slavery. This might originate with Congress or the State

legislatures, as may be deemed most advisable to attain the object.

The explanatory amendment might be confined to the final settlement of the true construction of the Constitution on three special points :

1. An express recognition of the right of property in slaves in the States where it now exists or may hereafter exist.

2. The duty of protecting this right in all the common Territories throughout their territorial existence, and until they shall be admitted as States into the Union, with or without slavery, as their constitutions may prescribe.

3. A like recognition of the right of the master to have his slave, who has escaped from one State to another restored and "delivered up" to him, and of the validity of the fugitive slave law enacted for this purpose, together with a declaration that all State laws impairing or defeating this right, are violations of the Constitution, and are consequently null and void. It may be objected that this construction of the Constitution has already been settled by the Supreme Court of the United States, and what more ought to be required? The answer is, that a very large proportion of the people of the United States still contest the correctness of this decision, and never will cease from agitation and admit its binding force until clearly established by the people of the several States in their sovereign character. Such an explanatory amendment, would, it is believed, forever terminate the existing dissensions, and restore peace and harmony among the States.

It ought not to be doubted that such an appeal to the arbitrament established by the Constitution itself would be received with favor by all the States of the Confederacy. In any event, it ought to be tried in a spirit of conciliation before any of these States shall separate themselves from the Union.

When I entered upon the duties of the presidential office the aspect neither of our foreign nor domestic affairs was at all satisfactory. We were involved in dangerous complications with several nations, and two of our Territories were in a state of revolution against the government. A restoration of the African slave trade had numerous and powerful advocates. Unlawful military expeditions were countenanced by

many of our citizens, and were suffered, in defiance of the efforts of the government, to escape from our shores for the purpose of making war upon the unoffending people of neighboring republics with whom we were at peace. In addition to these and other difficulties, we experienced a revulsion in monetary affairs, soon after my advent to power, of unexampled severity, and of ruinous consequences to all the great interests of the country. When we take a retrospect of what was then our condition, and contrast this with its material prosperity at the time of the late presidential election, we have abundant reason to return our grateful thanks to that merciful Providence which has never forsaken us as a nation in all our past trials.

Our relations with Great Britain are of the most friendly character. Since the commencement of my administration the two dangerous questions arising from the Clayton and Bulwer treaty, and from the right of search claimed by the British government, have been amicably and honorably adjusted.

The discordant constructions of the Clayton and Bulwer treaty between the two governments, which at different periods of the discussion bore a threatening aspect, have resulted in a final settlement entirely satisfactory to this government. In my last annual message I informed Congress that the British government had not then "completed treaty arrangements with the Republics of Honduras and Nicaragua in pursuance of the understanding between the two governments. It is, nevertheless, confidently expected that this good work will ere long be accomplished." This confident expectation has since been fulfilled. Her Britannic Majesty concluded a treaty with Honduras on the 28th November, 1859, and with Nicaragua on the 28th August, 1860, relinquishing the Mosquito protectorate. Besides, by the former, the Bay Islands are recognized as a part of the Republic of Honduras. It may be observed that the stipulations of these treaties conform in every important particular to the amendments adopted by the Senate of the United States to the treaty concluded at London on the 17th October, 1856, between the two governments. It will be recollected that this treaty was

rejected by the British government, because of its objection to the just and important amendment of the Senate to the article relating to Ruatan and the other islands in the bay of Honduras.

It must be a source of sincere satisfaction to all classes of our fellow citizens, and especially to those engaged in foreign commerce, that the claim on the part of Great Britain forcibly to visit and search American merchant vessels on the high seas in time of peace, has been abandoned. This was, by far, the most dangerous question to the peace of the two countries which has existed since the war of 1812. Whilst it remained open, they might at any moment have been precipitated into a war. This was rendered manifest by the exasperated state of public feeling throughout our entire country, produced by the forcible search of American merchant vessels by British cruisers on the coast of Cuba, in the spring of 1858. The American people hailed with general acclaim the orders of the Secretary of the Navy to our naval force in the Gulf of Mexico "to protect all vessels of the United States on the high seas from search or detention by the vessels of war of any other nation." These orders might have produced an immediate collision between the naval forces of the two countries. This was most fortunately prevented by an appeal to the justice of Great Britain, and to the law of nations as expounded by her own most eminent jurists.

The only question of any importance which still remains open, is the disputed title between the two governments to the Island of San Juan, in the vicinity of Washington Territory. As this question is still under negotiation, it is not deemed advisable at the present moment to make any other allusion to the subject.

The recent visit of the Prince of Wales, in a private character, to the people of this country, has proved to be a most auspicious event. In its consequences, it cannot fail to increase the kindred and kindly feelings which I trust may ever actuate the government and people of both countries in their political and social intercourse with each other.

With France, our ancient and powerful ally, our relations continue to be of the most friendly character. A decision has

recently been made by a French judicial tribunal, with the approbation of the Imperial government, which cannot fail to foster the sentiments of mutual regard that have so long existed between the two countries. Under the French law, no person can serve in the armies of France, unless he be a French citizen. The law of France recognizing the natural right of expatriation, it follows as a necessary consequence, that a Frenchman by the fact of having become a citizen of the United States has changed his allegiance, and has lost his native character. He cannot therefore be compelled to serve in the French armies, in case he should return to his native country. These principles were announced in 1852 by the French Minister of War, and in two late cases have been confirmed by the French judiciary. In these, two natives of France have been discharged from the French army, because they had become American citizens. To employ the language of our present minister to France, who has rendered good service on this occasion : " I do not think our French naturalized fellow-citizens will hereafter experience much annoyance on this subject." I venture to predict that the time is not far distant when the other continental powers will adopt the same wise and just policy which has done so much honor to the enlightened government of the Emperor. In any event, our government is bound to protect the rights of our naturalized citizens everywhere, to the same extent as though they had drawn their first breath in this country. We can recognize no distinction between our native and naturalized citizens.

Between the great empire of Russia and the United States, the mutual friendship and regard which has so long existed still continues to prevail, and if possible to increase. Indeed our relations with that empire are all that we could desire. Our relations with Spain are now of a more complicated though less dangerous character than they have been for many years. Our citizens have long held and continue to hold numerous claims against the Spanish government. These had been ably urged for a series of years by our successive diplomatic representatives at Madrid, but without obtaining redress. The Spanish government finally agreed to institute a joint com-

mission for the adjustment of these claims, and on the 5th day of March, 1860, concluded a convention for this purpose with our present minister at Madrid.

Under this convention, what have been denominated the "Cuban claims," amounting to \$128,635 54, in which more than one hundred of our fellow-citizens are interested, were recognized; and the Spanish government agreed to pay \$100,000 of this amount "within three months following the exchange of ratifications." The payment of the remaining \$28,635 54 was to await the decision of the commissioners for or against the "Amistad claim;" but in any event the balance was to be paid to the claimants either by Spain or the United States. These terms, I have every reason to know, are highly satisfactory to the holders of the Cuban claims. Indeed, they have made a formal offer, authorizing the State Department to settle these claims, and to deduct the amount of the Amistad claim from the sums which they are entitled to receive from Spain. This offer, of course, cannot be accepted. All other claims of citizens of the United States against Spain, or of subjects of the Queen of Spain against the United States, including the "Amistad claim," were by this convention referred to a board of commissioners in the usual form. Neither the validity of the Amistad claim, nor of any other claim against either party, with the single exception of the Cuban claims, was recognized by the convention. Indeed, the Spanish government did not insist that the validity of the Amistad claim should be thus recognized, notwithstanding its payment had been recommended to Congress by two of my predecessors, as well as by myself, and an appropriation for that purpose had passed the Senate of the United States.

They were content that it should be submitted to the board for examination and decision like the other claims. Both governments were bound respectively to pay the amounts awarded to the several claimants "at such times and places as may be fixed by and according to the tenor of said awards."

I transmitted this convention to the Senate for their constitutional action on the 3d of May, 1860, and on the 27th of

the succeeding June they determined that they would "not advise and consent" to its ratification.

These proceedings place our relations with Spain in an awkward and embarrassing position. It is more than probable that the final adjustment of these claims will devolve upon my successor.

I reiterate the recommendation contained in my annual message of December, 1858, and repeated in that of December, 1859, in favor of the acquisition of Cuba from Spain by fair purchase. I firmly believe that such an acquisition would contribute essentially to the well-being and prosperity of both countries in all future time, as well as prove the certain means of immediately abolishing the African slave trade throughout the world. I would not repeat this recommendation upon the present occasion if I believed that the transfer of Cuba to the United States, upon conditions highly favorable to Spain, could justly tarnish the national honor of the proud and ancient Spanish monarchy. Surely no person ever attributed to the First Napoleon a disregard of the national honor of France for transferring Louisiana to the United States for a fair equivalent, both in money and commercial advantages.

With the Emperor of Austria and the remaining continental powers of Europe, including that of the Sultan, our relations continue to be of the most friendly character.

The friendly and peaceful policy pursued by the government of the United States toward the empire of China has produced the most satisfactory results. The treaty of Tientsin of the 18th June, 1858, has been faithfully observed by the Chinese authorities. The convention of the 8th November, 1858, supplementary to this treaty for the adjustment and satisfaction of the claims of our citizens on China, referred to in my last annual message, has been already carried into effect, so far as this was practicable. Under this convention the sum of 500,000 taels, equal to about \$700,000, was stipulated to be paid in satisfaction of the claims of American citizens out of the one fifth of the receipts for tonnage, import, and export duties on American vessels at the ports of Canton, Shanghai, Fuchau; and it was "agreed that this amount shall be in full liquidation of all claims of American citizens

at the various ports to this date." Debentures for this amount, to wit: 300,000 taels for Canton, 100,000 for Shanghai, and 100,000 for Fuchau, were delivered, according to the terms of the convention, by the respective Chinese collectors of the customs of these ports to the agent selected by our minister to receive the same. Since that time the claims of our citizens have been adjusted by the board of commissioners appointed for that purpose under the act of March 3, 1859, and their awards, which proved satisfactory to the claimants, have been approved by our minister. In the aggregate they amount to the sum of \$498,694 78. The claimants have already received a large proportion of the sums awarded to them out of the fund provided, and it is confidently expected that the remainder will, ere long, be entirely paid. After the awards shall have been satisfied, there will remain a surplus of more than \$200,000 at the disposition of Congress. As this will in equity belong to the Chinese government, would not justice require its appropriation to some benevolent object in which the Chinese may be specially interested?

Our minister to China, in obedience to his instructions, has remained perfectly neutral in the war between Great Britain and France and the Chinese empire, although, in conjunction with the Russian minister, he was ever ready and willing, had the opportunity offered, to employ his good offices in restoring peace between the parties. It is but an act of simple justice, both to our present minister and his predecessor, to state that they have proved fully equal to the delicate, trying, and responsible positions in which they have on different occasions been placed.

The ratifications of the treaty with Japan, concluded at Yeddo on the 29th July, 1858, were exchanged at Washington on the 22d May last, and the treaty itself was proclaimed on the succeeding day. There is good reason to expect that, under its protection and influence, our trade and intercourse with that distant and interesting people will rapidly increase.

The ratifications of the treaty were exchanged with unusual solemnity. For this purpose the Tycoon had accredited three of his most distinguished subjects as envoys extraordinary and

ministers plenipotentiary, who were received and treated with marked distinction and kindness, both by the government and people of the United States. There is every reason to believe that they have returned to their native land entirely satisfied with their visit, and inspired by the most friendly feelings for our country. Let us ardently hope, in the language of the treaty itself, that "there shall henceforward be perpetual peace and friendship between the United States of America and his Majesty the Tycoon of Japan and his successors."

With the wise, conservative, and liberal government of the empire of Brazil our relations continue to be of the most amicable character.

The exchange of the ratifications of the convention with the republic of New Granada, signed at Washington on the 10th September, 1857, has been long delayed from accidental causes, for which neither party is censurable. These ratifications were duly exchanged in this city on the 5th of November last. Thus has a controversy been amicably terminated, which had become so serious at the period of my inauguration, as to require me, on the 17th April, 1857, to direct our minister to demand his passports and return to the United States.

Under this convention the government of New Granada has specially acknowledged itself to be responsible to our citizens "for damages which were caused by the riot at Panama on the 15th April, 1856." These claims, together with other claims of our citizens which had been long urged in vain, are referred for adjustment to a board of commissioners. I submit a copy of the convention to Congress, and recommend the legislation necessary to carry it into effect.

Persevering efforts have been made for the adjustment of the claims of American citizens against the government of Costa Rica, and I am happy to inform you that these have finally prevailed. A convention was signed at the city of San José on the 2d July last, between the minister resident of the United States in Costa Rica and the plenipotentiaries of that republic, referring these claims to a board of commissioners, and providing for the payment of their awards. This convention will be submitted immediately to the Senate for their constitutional action.

The claims of our citizens upon the republic of Nicaragua have not yet been provided for by treaty; although diligent efforts for this purpose have been made by our minister resident to that republic. These are still continued with a fair prospect of success.

Our relations with Mexico remain in a most unsatisfactory condition. In my last two annual messages I discussed extensively the subject of these relations, and do not now propose to repeat at length the facts and arguments then presented. They proved conclusively that our citizens residing in Mexico, and our merchants trading thereto, had suffered a series of wrongs and outrages such as we have never patiently borne from any other nation. For these our successive ministers, invoking the faith of treaties, had, in the name of their country, persistently demanded redress and indemnification, but without the slightest effect. Indeed, so confident had the Mexican authorities become of our patient endurance, that they universally believed they might commit these outrages upon American citizens with absolute impunity. Thus wrote our minister in 1856, and expressed the opinion, that "nothing but a manifestation of the power of the government and of its purpose to punish these wrongs will avail."

Afterward, in 1857, came the adoption of a new constitution for Mexico, the election of a president and congress under its provisions, and the inauguration of the president. Within one short month, however, this president was expelled from the capital by a rebellion in the army; and the supreme power of the republic was assigned to General Zuloaga. This usurper was, in his turn, soon compelled to retire, and give place to General Miramon.

Under the constitution which had thus been adopted, Señor Juarez, as chief justice of the supreme court, became the lawful president of the republic; and it was for the maintenance of the constitution and his authority derived from it, that the civil war commenced, and still continues to be prosecuted.

Throughout the year 1858, the constitutional party grew stronger and stronger. In the previous history of Mexico, a successful military revolution at the capital had almost universally been the signal for submission throughout the republic.

Not so on the present occasion. A majority of the citizens persistently sustained the constitutional government. When this was recognized in April, 1859, by the government of the United States, its authority extended over a large majority of the Mexican States and people, including Vera Cruz, and all the other important sea-ports of the republic. From that period our commerce with Mexico began to revive, and the constitutional government has afforded it all the protection in its power.

Meanwhile, the government of Miramon still held sway at the capital and over the surrounding country, and continued its outrages against the few American citizens who still had the courage to remain within its power. To cap the climax, after the battle of Tacubaya, in April, 1859, General Marquez ordered three citizens of the United States, two of them physicians, to be seized in the hospital at that place, taken out and shot, without crime, and without trial. This was done, notwithstanding our unfortunate countrymen were at the moment engaged in the holy cause of affording relief to the soldiers of both parties who had been wounded in the battle, without making any distinction between them.

The time had arrived, in my opinion, when this government was bound to exert its power to avenge and redress the wrongs of our citizens, and to afford them protection in Mexico. The interposing obstacle was that the portion of the country under the sway of Miramon, could not be reached without passing over territory under the jurisdiction of the constitutional government. Under these circumstances, I deemed it my duty to recommend to Congress, in my last annual message, the employment of a sufficient military force to penetrate into the interior, where the government of Miramon was to be found, with, or if need be, without the consent of the Juarez government, though it was not doubted that this consent could be obtained. Never have I had a clearer conviction on any subject than of the justice, as well as wisdom, of such a policy. No other alternative was left, except the entire abandonment of our fellow-citizens who had gone to Mexico under the faith of treaties to the systematic injustice, cruelty, and oppression of Miramon's government.

Besides, it is almost certain that the simple authority to employ this force would of itself have accomplished all our objects, without striking a single blow. The constitutional government would, then, ere this have been established at the city of Mexico, and would have been ready and willing, to the extent of its ability, to do us justice.

In addition, and I deem this a most important consideration, European governments would have been deprived of all pretext to interfere in the territorial and domestic concerns of Mexico. We should thus have been relieved from the obligation of resisting, even by force, should this become necessary, any attempt by these governments to deprive our neighboring republic of portions of her territory, a duty from which we could not shrink without abandoning the traditional and established policy of the American people. I am happy to observe that, firmly relying upon the justice and good faith of these governments, there is no present danger that such a contingency will happen.

Having discovered that my recommendations would not be sustained by Congress, the next alternative was to accomplish, in some degree, if possible, the same objects by treaty stipulations with the constitutional government. Such treaties were accordingly concluded by our late able and excellent minister to Mexico, and on the 4th of January last were submitted to the Senate for ratification. As these have not yet received the final action of that body, it would be improper for me to present a detailed statement of their provisions. Still, I may be permitted to express the opinion in advance, that they are calculated to promote the agricultural, manufacturing, and commercial interests of the country, and to secure our just influence with an adjoining republic as to whose fortunes and fate we can never feel indifferent ; whilst at the same time they provide for the payment of a considerable amount towards the satisfaction of the claims of our injured fellow-citizens.

At the period of my inauguration I was confronted in Kansas by a revolutionary government existing under what is called the "Topeka Constitution." Its avowed object was to subdue the territorial government by force, and to inaugurate

what was called the "Topeka Government" in its stead. To accomplish this object an extensive military organization was formed, and its command intrusted to the most violent revolutionary leaders. Under these circumstances it became my imperative duty to exert the whole constitutional power of the Executive to prevent the flames of civil war from again raging in Kansas ; which, in the excited state of the public mind, both North and South, might have extended into the neighboring States. The hostile parties in Kansas had been inflamed against each other, by emissaries both from the North and the South, to a degree of malignity without parallel in our history. To prevent actual collision, and to assist the civil magistrates in enforcing the laws, a strong detachment of the army was stationed in the Territory, ready to aid the marshal and his deputies when lawfully called upon as a *posse comitatus* in the execution of civil and criminal process. Still the troubles in Kansas could not have been permanently settled without an election by the people.

The ballot-box is the surest arbiter of disputes among free-men. Under this conviction every proper effort was employed to induce the hostile parties to vote at the election of delegates to frame a State constitution, and afterwards at the election to decide whether Kansas should be a slave or free State.

The insurgent party refused to vote at either, lest this might be considered a recognition on their part of the territorial government established by Congress. A better spirit, however, seemed soon after to prevail, and the two parties met face to face at the third election, held on the first Monday of January, 1858, for members of the legislature and State officers under the Lecompton constitution. The result was the triumph of the anti-slavery party at the polls. This decision of the ballot-box proved clearly that this party were in the majority, and removed the danger of civil war. From that time we have heard little or nothing of the Topeka government, and all serious danger of revolutionary troubles in Kansas was then at an end.

The Lecompton constitution which had been thus recognized at this State election, by the votes of both political parties in Kansas, was transmitted to me with the request that I should

present it to Congress. This I could not have refused to do without violating my clearest and strongest convictions of duty. The constitution and all the proceedings which preceded and followed its formation, were fair and regular on their face. I then believed, and experience has proved, that the interests of the people of Kansas would have been best consulted by its admission as a State into the Union, especially as the majority, within a brief period, could have amended the constitution according to their will and pleasure. If fraud existed in all or any of these proceedings, it was not for the President but for Congress to investigate and determine the question of fraud, and what ought to be its consequences. If at the first two elections the majority refused to vote, it cannot be pretended that this refusal to exercise the elective franchise could invalidate an election fairly held under lawful authority, even if they had not subsequently voted at the third election. It is true that the whole constitution had not been submitted to the people as I always desired ; but the precedents are numerous of the admission of States into the Union without such submission. It would not comport with my present purpose to review the proceedings of Congress upon the Lecompton constitution. It is sufficient to observe that their final action has removed the last vestige of serious revolutionary troubles. The desperate band recently assembled under a notorious outlaw in the southern portion of the Territory, to resist the execution of the laws, and to plunder peaceful citizens, will, I doubt not, be speedily subdued and brought to justice.

Had I treated the Lecompton constitution as a nullity and refused to transmit it to Congress, it is not difficult to imagine, whilst recalling the position of the country at that moment, what would have been the disastrous consequences, both in and out of the Territory, from such a dereliction of duty on the part of the Executive.

Peace has also been restored within the Territory of Utah, which at the commencement of my administration was in a state of open rebellion. This was the more dangerous, as the people animated by a fanatical spirit and entrenched within their distant mountain fastnesses, might have made a long and

formidable resistance. Cost what it might it was necessary to bring them into subjection to the Constitution and the laws. Sound policy, therefore, as well as humanity, required that this object should, if possible, be accomplished without the effusion of blood. This could only be effected by sending a military force into the Territory sufficiently strong to convince the people that resistance would be hopeless, and at the same time to offer them a pardon for past offences on condition of immediate submission to the government. This policy was pursued with eminent success, and the only cause for regret is the heavy expenditure required to march a large detachment of the army to that remote region, and to furnish it subsistence.

Utah is now comparatively peaceful and quiet, and the military force has been withdrawn, except that portion of it necessary to keep the Indians in check, and to protect the emigrant trains on their way to our Pacific possessions.

In my first annual message I promised to employ my best exertions, in coöperation with Congress, to reduce the expenditures of the government within the limits of a wise and judicious economy. An overflowing treasury had produced habits of prodigality and extravagance which could only be gradually corrected. The work required both time and patience. I applied myself diligently to this task from the beginning, and was aided by the able and energetic efforts of the heads of the different executive departments. The result of our labors in this good cause did not appear in the sum total of our expenditures for the first two years, mainly in consequence of the extraordinary expenditure necessarily incurred in the Utah expedition, and the very large amount of the contingent expenses of Congress during this period. These greatly exceeded the pay and mileage of the members. For the year ending June 30, 1858, whilst the pay and mileage amounted to \$1,490,214, the contingent expenses rose to \$2,093,309 79, and for the year ending June 30, 1859, whilst the pay and mileage amounted to \$859,093 66, the contingent expenses amounted to \$1,431,565 78. I am happy, however, to be able to inform you that during the last fiscal year ending June 30, 1860, the total expenditures of the government in

all its branches, legislative, executive, and judicial, exclusive of the public debt, were reduced to the sum of \$55,402,-465 46. This conclusively appears from the books of the Treasury. In the year ending June 30, 1858, the total expenditure, exclusive of the public debt, amounted to \$71,901,-129 77, and that for the year ending June 30, 1859, to \$66,346,226 13. Whilst the books of the Treasury show an actual expenditure of \$59,848,474 72 for the year ending June 30, 1860, including \$1,040,667 71 for the contingent expenses of Congress, there must be deducted from this amount the sum of \$4,296,009 26, with the interest upon it of \$150,000, appropriated by the act of February 15, 1860, "for the purpose of supplying the deficiency in the revenues and defraying the expenses of the Post Office Department for the year ending June 30, 1859." This sum, therefore, justly chargeable to the year 1859, must be deducted from the sum of \$59,848,474 72 in order to ascertain the expenditure for the year ending June 30, 1860, which leaves a balance for the expenditures of that year of \$55,402,465 46. The interest on the public debt, including treasury notes for the same fiscal year, ending June 30, 1860, amounted to \$3,177,314 62, which, added to the above sum of \$55,402,465 46, makes the aggregate of \$58,579,780 08.

It ought, in justice to be observed, that several of the estimates from the departments for the year ending June 30, 1860, were reduced by Congress below what was and still is deemed compatible with the public interest. Allowing a liberal margin of \$2,500,000 for this reduction and for other causes, it may be safely asserted that the sum of \$61,000,000, or, at the most, \$62,000,000, is amply sufficient to administer the government and to pay the interest on the public debt, unless contingent events should hereafter render extraordinary expenditures necessary.

This result has been attained in a considerable degree by the care exercised by the appropriate departments in entering into public contracts. I have myself never interfered with the award of any such contract, except in a single case, with the Colonization Society, deeming it advisable to cast the whole responsibility in each case on the proper head of the depart-

ment, with the general instruction that these contracts should always be given to the lowest and best bidder. It has ever been my opinion that public contracts are not a legitimate source of patronage, to be conferred upon personal or political favorites ; but that, in all such cases, a public officer is bound to act for the government as a prudent individual would act for himself.

It is with great satisfaction I communicate the fact that since the date of my last annual message not a single slave has been imported into the United States in violation of the laws prohibiting the African slave trade. This statement is founded upon a thorough examination and investigation of the subject. Indeed, the spirit which prevailed some time since among a portion of our fellow-citizens in favor of this trade seems to have entirely subsided.

I also congratulate you upon the public sentiment which now exists against the crime of setting on foot military expeditions within the limits of the United States, to proceed from thence and make war upon the people of unoffending States with whom we are at peace. In this respect a happy change has been effected since the commencement of my administration. It surely ought to be the prayer of every Christian and patriot that such expeditions may never again receive countenance in our country, or depart from our shores.

It would be a useless repetition to do more than refer with earnest commendation to my former recommendations in favor of the Pacific railroad ; of the grant of power to the President to employ the naval force in the vicinity for the protection of the lives and property of our fellow-citizens passing in transit over the different Central American routes against sudden and lawless outbreaks and depredations ; and also to protect American merchant vessels, their crews and cargoes, against violent and unlawful seizure and confiscation in the ports of Mexico and the South American republics, when these may be in a disturbed and revolutionary condition. It is my settled conviction, that without such a power we do not afford that protection to those engaged in the commerce of the country which they have a right to demand.

I again recommend to Congress the passage of a law, in

pursuance of the provisions of the Constitution, appointing a day certain previous to the 4th March in each year of an odd number, for the election of representatives throughout all the States. A similar power has already been exercised, with general approbation, in the appointment of the same day throughout the Union for holding the election of electors for President and Vice-President of the United States. My attention was earnestly directed to this subject from the fact that the Thirty-fifth Congress terminated on the 3d March, 1859, without making the necessary appropriation for the service of the Post Office Department. I was then forced to consider the best remedy for this omission, and an immediate call of the present Congress was the natural resort. Upon inquiry, however, I ascertained that fifteen out of the thirty-three States composing the Confederacy were without representatives, and that consequently these fifteen States would be disfranchised by such a call. These fifteen States would be in the same condition on the 4th March next. Ten of them cannot elect representatives, according to existing State laws, until different periods, extending from the beginning of August next until the months of October and November. In my last message I gave warning that in a time of sudden and alarming danger the salvation of our institutions might depend upon the power of the President immediately to assemble a full Congress to meet the emergency.

It is now quite evident that the financial necessities of the government will require a modification of the tariff during your present session for the purpose of increasing the revenue. In this aspect, I desire to reiterate the recommendation contained in my last two annual messages in favor of imposing specific, instead of *ad valorem*, duties on all imported articles to which these can be properly applied. From long observation and experience, I am convinced that specific duties are necessary, both to protect the revenue and to secure to our manufacturing interests that amount of incidental encouragement which unavoidably results from a revenue tariff.

As an abstract proposition, it may be admitted that *ad valorem* duties would in theory be the most just and equal. But if the experience of this and of all other commercial

nations has demonstrated that such duties cannot be assessed and collected without great frauds upon the revenue, then it is the part of wisdom to resort to specific duties. Indeed, from the very nature of an *ad valorem* duty, this must be the result. Under it the inevitable consequence is, that foreign goods will be entered at less than their true value. The Treasury will, therefore, lose the duty on the difference between their real and fictitious value, and to this extent we are defrauded.

The temptations which *ad valorem* duties present to a dishonest importer are irresistible. His object is to pass his goods through the custom-house at the very lowest valuation necessary to save them from confiscation. In this he too often succeeds, in spite of the vigilance of the revenue officers. Hence the resort to false invoices, one for the purchaser and another for the custom-house, and to other expedients to defraud the government. The honest importer produces his invoice to the collector, stating the actual price at which he purchased the articles abroad. Not so the dishonest importer, and the agent of the foreign manufacturer. And here it may be observed that a very large proportion of the manufactures imported from abroad are consigned for sale to commission merchants, who are mere agents employed by the manufacturers. In such cases no actual sale has been made to fix their value. The foreign manufacturer, if he be dishonest, prepares an invoice of the goods, not at their actual value, but at the very lowest rate necessary to escape detection. In this manner the dishonest importer and the foreign manufacturer enjoy a decided advantage over the honest merchant. They are thus enabled to undersell the fair trader, and drive him from the market. In fact, the operation of this system has already driven from the pursuits of honorable commerce many of that class of regular and conscientious merchants whose character throughout the world is the pride of our country.

The remedy for these evils is to be found in specific duties, so far as this may be practicable. They dispense with any inquiry at the custom-house into the actual cost or value of the article, and it pays the precise amount of duty previously fixed by law. They present no temptations to the appraisers

of foreign goods, who receive but small salaries, and might, by undervaluation in a few cases, render themselves independent.

Besides, specific duties best conform to the requisition in the Constitution, that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." Under our *ad valorem* system such preferences are to some extent inevitable, and complaints have often been made that the spirit of this provision has been violated by a lower appraisement of the same articles at one port than at another.

An impression strangely enough prevails, to some extent, that specific duties are necessarily protective duties. Nothing can be more fallacious. Great Britain glories in free trade, and yet her whole revenue from imports is at the present moment collected under a system of specific duties. It is a striking fact in this connection, that in the commercial treaty of January 23, 1860, between France and England, one of the articles provides that the *ad valorem* duties which it imposes shall be converted into specific duties within six months from its date, and these are to be ascertained by making an average of the prices for six months previous to that time. The reverse of the propositions would be nearer to the truth, because a much larger amount of revenue would be collected by merely converting the *ad valorem* duties of a tariff into equivalent specific duties. To this extent the revenue would be increased, and in the same proportion the specific duty might be diminished.

Specific duties would secure to the American manufacturer the incidental protection to which he is fairly entitled under a revenue tariff, and to this surely no person would object. The framers of the existing tariff have gone further, and in a liberal spirit have discriminated in favor of large and useful branches of our manufactures, not by raising the rate of duty upon the importation of similar articles from abroad, but, what is the same in effect, by admitting articles free of duty which enter into the composition of their fabrics.

Under the present system, it has been often truly remarked that this incidental protection decreases when the manufac-

turer needs it most and increases when he needs it least, and constitutes a sliding scale which always operates against him. The revenues of the country are subject to similar fluctuations. Instead of approaching a steady standard, as would be the case under a system of specific duties, they sink and rise with the sinking and rising prices of articles in foreign countries. It would not be difficult for Congress to arrange a system of specific duties which would afford additional stability both to our revenue and our manufactures, and without injury or injustice to any interest of the country. This might be accomplished by ascertaining the average value of any given article for a series of years at the place of exportation, and by simply converting the rate of *ad valorem* duty upon it, which might be deemed necessary for revenue purposes, into the form of a specific duty. Such an arrangement could not injure the consumer. If he should pay a greater amount of duty one year, this would be counterbalanced by a lesser amount the next, and in the end the aggregate would be the same.

I desire to call your immediate attention to the present condition of the Treasury, so ably and clearly presented by the Secretary, in his report to Congress ; and to recommend that measures be promptly adopted, to enable it to discharge its pressing obligations. The other recommendations of the report are well worthy of your favorable consideration.

I herewith transmit to Congress the reports of the Secretaries of War, of the Navy, of the Interior, and of the Postmaster General. The recommendations and suggestions which they contain are highly valuable, and deserve your careful attention.

The report of the Postmaster General details the circumstances under which Cornelius Vanderbilt, on my request, agreed, in the month of July last, to carry the ocean mails between our Atlantic and Pacific coasts. Had he not thus acted, this important intercommunication must have been suspended, at least for a season. The Postmaster General had no power to make him any other compensation than the postages on the mail matter, which he might carry. It was known at the time that these postages would fall far short of an adequate compensation, as well as of the sum which the same

service had previously cost the government. Mr. Vanderbilt, in a commendable spirit, was willing to rely upon the justice of Congress to make up the deficiency; and I, therefore, recommend that an appropriation may be granted for this purpose.

I should do great injustice to the Attorney General, were I to omit the mention of his distinguished services in the measures adopted and prosecuted by him for the defence of the government against numerous and unfounded claims to land in California, purporting to have been made by the Mexican government previous to the treaty of cession. The successful opposition to these claims has saved the United States public property, worth many millions of dollars, and to individuals holding title under them to at least an equal amount.

It has been represented to me, from sources which I deem reliable, that the inhabitants in several portions of Kansas have been reduced nearly to a state of starvation, on account of the almost total failure of their crops, whilst the harvests in every other portion of the country have been abundant. The prospect before them for the approaching winter is well calculated to enlist the sympathies of every heart. The destitution appears to be so general that it cannot be relieved by private contributions, and they are in such indigent circumstances as to be unable to purchase the necessaries of life for themselves. I refer the subject to Congress. If any constitutional measure for their relief can be devised, I would recommend its adoption.

I cordially commend to your favorable regard the interests of the people of this District. They are eminently entitled to your consideration, especially since, unlike the people of the States, they can appeal to no government except that of the Union.

JAMES BUCHANAN.

WASHINGTON CITY, *December 3, 1860.*

SPECIAL MESSAGE OF THE PRESIDENT ON THE VIOLATION OF NICARAGUAN TERRITORY.

The President transmits to the Senate the papers called for.—Commodore Paulding erred in capturing Walker and his command after they had landed in Nicaragua.—His action from pure and patriotic motives.—Obedience to law and conformity to instructions are the best and safest guides for all officers, civil and military.—The Executive does not recognize General Walker as a prisoner.—The neutrality laws must be executed.—The crime of setting on foot military expeditions in the United States against a foreign State at peace with us, is a crime deserving the severest punishment.—It is the violation of the principles of Christianity, morality, and humanity.—To be criminal, under the Act of April 20th, 1818, the military expedition must “begin” or be “set on foot” in the United States, and the Act authorizes the President to prevent the “carrying on” of such expeditions to their consummation after leaving our shores.—Had Commodore Paulding intercepted Walker on the seas, before landing in Nicaragua, it would have been legal and praiseworthy.—It is the destiny of our race to spread themselves over the Continent of North America at no distant day, but peacefully.

To the Senate of the United States :

In submitting to the Senate the papers for which they have called, I deem it proper to make a few observations.

In capturing General Walker and his command after they had landed on the soil of Nicaragua, Commodore Paulding has, in my opinion, committed a grave error. It is quite evident, however, from the communications herewith transmitted, that this was done from pure and patriotic motives, and in the sincere conviction that he was promoting the interests and vindicating the honor of his country. In regard to Nicaragua, she has sustained no injury by the act of Commodore Paulding. This has inured to her benefit, and relieved her from a dreaded invasion. She alone would have any right to complain of the violation of her territory, and it is quite certain she will never exercise this right. It unquestionably does not lie in the mouth of her invaders to complain in her name that she has been rescued by Commodore Paulding from their assaults. The error of this gallant officer consists in exceeding his instructions, and landing his sailors and marines in Nica-

ragua, whether with or without her consent, for the purpose of making war upon any military force whatever which he might find in the country, no matter from whence they came. This power certainly did not belong to him. Obedience to law and conformity to instructions are the best and safest guides for all officers, civil and military, and when they transcend these limits, and act upon their own personal responsibility, evil consequences almost inevitably follow.

Under these circumstances, when Marshal Rynders presented himself at the State Department on the 29th ultimo, with General Walker in custody, the Secretary informed him that the Executive department of the Government did not recognize General Walker as a prisoner, that it had no directions to give concerning him, and that it is only through the action of the judiciary that he could be lawfully held in custody to answer any charges that might be brought against him.

In thus far disapproving the conduct of Commodore Paulding, no inference must be drawn that I am less determined than I ever have been to execute the neutrality laws of the United States. This is my imperative duty, and I shall continue to perform it by all the means which the Constitution and the laws have placed in my power.

My opinion of the value and importance of these laws corresponds entirely with that expressed by Mr. Monroe, in his message to Congress of December 7, 1819. That wise, prudent, and patriotic statesman says : " It is of the highest importance to our national character, and indispensable to the morality of our citizens, that all violations of our neutrality should be prevented. No door should be left open for the evasion of our laws ; no opportunity afforded to any who may be disposed to take advantage of it to compromit the interests or the honor of the nation."

The crime of setting on foot or providing the means for a military expedition within the United States to make war against a foreign State with which we are at peace, is one of an aggravated and dangerous character, and early engaged the attention of Congress. Whether the Executive Government possessed any, or what power, under the Constitution, independently of Congress, to prevent or punish this and similar

offences against the law of nations, was a subject which engaged the attention of our most eminent statesmen in the time of the administration of General Washington, and on the occasion of the French Revolution. The act of Congress of the 5th of June, 1794, fortunately removed all the difficulties on this question which had theretofore existed. The fifth and seventh sections of this act, which relate to the present question, are the same in substance with the sixth and eighth sections of the act of April 20, 1818, and have now been in force for a period of more than sixty years.

The military expedition rendered criminal by the act, must have its origin, must "begin," or be "set on foot," in the United States; but the great object of the law was to save foreign States with whom we were at peace, from the ravages of these lawless expeditions proceeding from our shores. The seventh section alone, therefore, which simply defines the crime and its punishment, would have been inadequate to accomplish this purpose and enforce our international duties. In order to render the law effectual, it was necessary to prevent "the carrying on" of such expeditions to their consummation after they had succeeded in leaving our shores.

This has been done effectually, and in clear and explicit language, by the authority given to the President under the eighth section of the act to employ the land and naval forces of the United States "for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or domain of any foreign prince or State, or of any colony, district, or people with whom the United States are at peace."

For these reasons, had Commodore Paulding intercepted the steamer "Fashion," with General Walker and his command on board, at any period before they entered the port of San Juan de Nicaragua, and conducted them back to Mobile, this would have prevented them from "carrying on" the expedition, and have been not only a justification but a praiseworthy act.

The crime well deserves the severe punishment inflicted upon it by our laws. It violates the principles of Christianity, morality, and humanity, held sacred by all civilized nations,

and by none more than by the people of the United States. Disguise it as we may, such a military expedition is an invitation to reckless and lawless men to enlist under the banner of any adventurer to rob, plunder, and murder the unoffending citizens of neighboring States who have never done them harm. It is a usurpation of the war-making power which belongs alone to Congress; and the Government itself, at least in the estimation of the world, becomes an accomplice in the commission of this crime, unless it adopts all the means necessary to prevent and to punish it. It would be far better, and more in accordance with the bold and manly character of our countrymen, for the Government itself to get up such expeditions than to allow them to proceed under the command of irresponsible adventurers. We could then, at least, exercise some control over our own agents, and prevent them from burning down cities, and committing other acts of enormity of which we have read.

The avowed principle which lies at the foundation of the law of nations is contained in the Divine command that "All things whatsoever ye would that men should do to you, do ye even so to them." Tried by this unerring rule, we should be severely condemned if we shall not use our best exertions to arrest such expeditions against our feeble sister Republic of Nicaragua. One thing is very certain, that people never existed who would call any other nation to a stricter account than we should ourselves for tolerating lawless expeditions from their shores to make war upon any portion of our territories.

By tolerating such expeditions, we shall soon lose the high character which we have enjoyed ever since the days of Washington, for the faithful performance of our international obligations and duties, and inspire distrust against us among the members of the great family of civilized nations.

But if motives of duty were not sufficient to restrain us from engaging in such lawless enterprises, our evident interest ought to dictate this policy. These expeditions are the most effectual mode of retarding American progress; although to promote this is the avowed object of the leaders and contributors in such undertakings.

It is beyond question the destiny of our race to spread themselves over the Continent of North America, and this at no distant day, should events be permitted to take their natural course. The tide of emigration will flow to the South, and nothing can eventually arrest its progress. If permitted to go there, peacefully, Central America will soon contain an American population which will confer blessings and benefits as well upon the natives as their respective Governments. Liberty, under the restraint of law, will preserve domestic peace ; whilst the different transit routes across the Isthmus, in which we are so deeply interested, will have assured protection.

Nothing has retarded this happy condition of things so much as the unlawful expeditions which have been fitted out in the United States to make war upon the Central American States. Had one half of the number of American citizens who have miserably perished in the first disastrous expedition of General Walker settled in Nicaragua as peaceful emigrants, the object which we all desire would ere this have been in a great degree accomplished. These expeditions have caused the people of the Central American States to regard us with dread and suspicion. It is our true policy to remove this apprehension, and to convince them that we intend to do them good, and not evil. We desire, as the leading Power on this continent, to open, and, if need be, to protect every transit route across the Isthmus, not only for our own benefit, but that of the world, and thus open a free access to Central America, and through it to our Pacific possessions. This policy was commenced under favorable auspices, when the expedition, under the command of General Walker, escaped from our territories and proceeded to Punta Arenas. Should another expedition of a similar character again evade the vigilance of our officers, and proceed to Nicaragua, this would be fatal, at least for a season, to the peaceful settlement of these countries, and to the policy of American progress. The truth is, that no Administration can successfully conduct the affairs of the country in Central America, or anywhere else, if it is to be interfered with at every step by lawless military expeditions "set on foot" in the United States.

JAMES BUCHANAN.

WASHINGTON, *January 7*, 1858.

SPECIAL MESSAGE OF THE PRESIDENT,
TRANSMITTING TO CONGRESS THE
CONSTITUTION OF KANSAS,
FEBRUARY 2, 1858.

The President transmits to Congress a duly certified copy of the Constitution and Ordinance adopted by the Constitutional Convention of Kansas at Lecompton.—A portion of the people of Kansas have been in a state of rebellion, seeking to overthrow the territorial government established by Congress.—The attempt to establish a revolutionary government under the so-called Topeka Constitution.—Report of Governor Walker.—Describes the situation in Kansas, and refusal of the adherents of the so-called Topeka Constitution to participate in the election of delegates to the Constitutional Convention, and to vote on the question of slavery submitted by it to the people.—The election suffered to pass by default, and of this the electors refusing to vote cannot justly complain.—The Convention frames a constitution, and decides to submit the question whether the new State shall be free or slave to the popular vote.—The President expresses the belief that under the organic act the Convention was bound to submit the question of slavery to the people, but that independently of that act, it was under no obligation to submit any portion of the Constitution to popular vote to give it validity.—The people, after admission as a State, will have the power to change their constitution or laws at their own pleasure.—A better spirit subsequently prevailed, and the majority of the people voted for governor and State officers, and member of Congress, under the Lecompton Constitution.—They now apply to Congress for admission into the Union.—The President, as a question of expediency, advocates their admission, and assigns his reasons therefor.—It will restore peace and prosperity to Kansas, and quiet to the whole country.—The United States troops in Kansas can then be employed elsewhere where much needed.

To the Senate and House of Representatives of the United States:

I have received from J. Calhoun, Esq., president of the late constitutional convention of Kansas, a copy, duly certified by himself, of the constitution framed by that body, with the expression of a hope that I would submit the same to the consideration of Congress, “with the view of the admission of

Kansas into the Union as an independent State.' In compliance with this request, I herewith transmit to Congress, for their action, the constitution of Kansas, with the ordinance respecting the public lands, as well as the letter of Mr. Calhoun, dated at Leecompton on the 14th ultimo, by which they were accompanied. Having received but a single copy of the constitution and ordinance, I send this to the Senate.

A great delusion seems to pervade the public mind in relation to the condition of parties in Kansas. This arises from the difficulty of inducing the American people to realize the fact that any portion of them should be in a state of rebellion against the government under which they live. When we speak of the affairs of Kansas, we are apt to refer merely to the existence of two violent political parties in that Territory, divided on the question of slavery, just as we speak of such parties in the States. This presents no adequate idea of the true state of the case. The dividing line there is not between two political parties, both acknowledging the lawful existence of the government, but between those who are loyal to this government and those who have endeavored to destroy its existence by force and by usurpation—between those who sustain and those who have done all in their power to overthrow the territorial government established by Congress. This government they would long since have subverted had it not been protected from their assaults by the troops of the United States. Such has been the condition of affairs since my inauguration. Ever since that period a large portion of the people of Kansas have been in a state of rebellion against the government, with a military leader at their head of a most turbulent and dangerous character. They have never acknowledged, but have constantly renounced and defied the government to which they owe allegiance, and have been all the time in a state of resistance against its authority. They have all the time been endeavoring to subvert it and to establish a revolutionary government, under the so-called Topeka constitution, in its stead. Even at this very moment the Topeka legislature are in session. Whoever has read the correspondence of Governor Walker with the State Department, recently communicated to the Senate, will be convinced that this pic-

ture is not overdrawn. He always protested against the withdrawal of any portion of the military force of the United States from the Territory, deeming its presence absolutely necessary for the preservation of the regular government and the execution of the laws. In his very first despatch to the Secretary of State, dated June 2, 1857, he says: "The most alarming movement, however, proceeds from the assembling on the 9th June of the so-called Topeka legislature, with a view to the enactment of an entire code of laws. Of course it will be my endeavor to prevent such a result, as it would lead to inevitable and disastrous collision, and, in fact, renew the civil war in Kansas." This was with difficulty prevented by the efforts of Governor Walker; but soon thereafter, on the 14th of July, we find him requesting General Harney to furnish him a regiment of dragoons to proceed to the city of Lawrence—and this for the reason that he had received authentic intelligence, verified by his own actual observation, that a dangerous rebellion had occurred, "involving an open defiance of the laws and the establishment of an insurgent government in that city."

In the governor's despatch of July 15, he informs the Secretary of State "that this movement at Lawrence was the beginning of a plan, originating in that city, to organize insurrection throughout the Territory; and especially in all towns, cities, or counties where the republican party have a majority. Lawrence is the hot bed of all the abolition movements in this Territory. It is the town established by the abolition societies of the east, and whilst there are respectable people there, it is filled by a considerable number of mercenaries who are paid by abolition societies to perpetuate and diffuse agitation throughout Kansas, and prevent a peaceful settlement of this question. Having failed in inducing their own so-called Topeka State legislature to organize this insurrection, Lawrence has commenced it herself, and, if not arrested, the rebellion will extend throughout the Territory."

And again: "In order to send this communication immediately by mail, I must close by assuring you that the spirit of rebellion pervades the great mass of the republican party of this Territory, instigated, as I entertain no doubt they are, by

eastern societies, having in view results most disastrous to the government and to the Union ; and that the continued presence of General Harney here is indispensable, as originally stipulated by me, with a large body of dragoons and several batteries."

On the 20th July, 1857, General Lane, under the authority of the Topeka convention, undertook, as Governor Walker informs us, "to organize the whole so-called free State party into volunteers, and to take the names of all who refuse enrolment. The professed object is to protect the polls, at the election in August, of the new insurgent Topeka State legislature."

"The object of taking the names of all who refuse enrolment is to terrify the free State conservatives into submission. This is proved by recent atrocities committed on such men by Topekaites. The speedy location of large bodies of regular troops here, with two batteries, is necessary. The Lawrence insurgents await the development of this new revolutionary military organization," &c., &c.

In the governor's despatch of July 27th, he says that "General Lane and his staff everywhere deny the authority of the territorial laws, and counsel a total disregard of these enactments."

Without making further quotations of a similar character from other despatches of Governor Walker, it appears by a reference to Mr. Stanton's communication to General Cass, of the 9th of December last, that the "important step of calling the legislature together was taken after I [he] had become satisfied that the election ordered by the convention on the 21st instant could not be conducted without collision and bloodshed." So intense was the disloyal feeling among the enemies of the government established by Congress, that an election which afforded them an opportunity, if in the majority, of making Kansas a free State, according to their own professed desire, could not be conducted without collision and bloodshed !

The truth is, that, up till the present moment, the enemies of the existing government still adhere to their Topeka revolutionary constitution and government. The very first para-

graph of the message of Governor Robinson, dated on the 7th of December, to the Topeka legislature, now assembled at Lawrence, contains an open defiance of the Constitution and laws of the United States. The governor says : " The convention which framed the constitution at Topeka originated with the people of Kansas Territory. They have adopted and ratified the same twice by a direct vote, and also indirectly through two elections of State officers and members of the State legislature. Yet it has pleased the administration to regard the whole proceeding revolutionary. "

This Topeka government, adhered to with such treasonable pertinacity, is a government in direct opposition to the existing government prescribed and recognized by Congress. It is a usurpation of the same character as it would be for a portion of the people of any State of the Union to undertake to establish a separate government, within its limits, for the purpose of redressing any grievance, real or imaginary, of which they might complain, against the legitimate State government. Such a principle, if carried into execution, would destroy all lawful authority and produce universal anarchy.

From this statement of facts, the reason becomes palpable why the enemies of the government authorized by Congress have refused to vote for delegates to the Kansas constitutional convention, and also afterwards on the question of slavery submitted by it to the people. It is because they have ever refused to sanction or recognize any other constitution than that framed at Topeka.

Had the whole Lecompton constitution been submitted to the people, the adherents of this organization would doubtless have voted against it, because, if successful, they would thus have removed an obstacle out of the way of their own revolutionary constitution. They would have done this, not upon a consideration of the merits of the whole or any part of the Lecompton constitution, but simply because they have ever resisted the authority of the government authorized by Congress, from which it emanated.

Such being the unfortunate condition of affairs in the Territory, what was the right, as well as the duty, of the law abiding people ? Were they silently and patiently to submit to

the Topeka usurpation, or adopt the necessary measures to establish a constitution under the authority of the organic law of Congress?

That this law recognized the right of the people of the Territory, without any enabling act from Congress, to form a State constitution, is too clear for argument. For Congress "to leave the people of the Territory perfectly free," in framing their constitution, "to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States," and then to say that they shall not be permitted to proceed and frame a constitution in their own way, without an express authority from Congress, appears to be almost a contradiction in terms. It would be much more plausible to contend that Congress had no power to pass such an enabling act, than to argue that the people of a Territory might be kept out of the Union for an indefinite period, and until it might please Congress to permit them to exercise the right of self-government. This would be to adopt not "their own way," but the way which Congress might prescribe.

It is impossible that any people could have proceeded with more regularity in the formation of a constitution than the people of Kansas have done. It was necessary, first, to ascertain whether it was the desire of the people to be relieved from their territorial dependence and establish a State government. For this purpose, the territorial legislature, in 1855, passed a law "for taking the sense of the people of this Territory upon the expediency of calling a convention to form a State constitution" at the general election to be held in October, 1856. The "sense of the people" was accordingly taken, and they decided in favor of a convention. It is true that at this election the enemies of the territorial government did not vote, because they were then engaged at Topeka, without the slightest pretext of lawful authority, in framing a constitution of their own for the purpose of subverting the territorial government.

In pursuance of this decision of the people in favor of a convention, the territorial legislature, on the 27th day of February, 1857, passed an act for the election of delegates on

the third Monday of June, 1857, to frame a State constitution. This law is as fair in its provisions as any that ever passed a legislative body for a similar purpose. The right of suffrage at this election is clearly and justly defined. "Every *bona fide* inhabitant of the Territory of Kansas" on the third Monday of June, the day of the election, who was a citizen of the United States above the age of twenty-one, and had resided therein for three months previous to that date, was entitled to vote. In order to avoid all interference from neighboring States or Territories with the freedom and fairness of the election, provision was made for the registry of the qualified voters ; and, in pursuance thereof, nine thousand two hundred and fifty-one voters were registered. Governor Walker did his whole duty in urging all the qualified citizens of Kansas to vote at this election. In his inaugural address, on the 27th May last, he informed them that "under our practice the preliminary act of framing a State constitution is uniformly performed through the instrumentality of a convention of delegates chosen by the people themselves. That convention is now about to be elected by you under the call of the territorial legislature, created and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The territorial legislature, then, in assembling this convention, were fully sustained by the act of Congress, and the authority of the convention is distinctly recognized in my instructions from the President of the United States."

The governor also clearly and distinctly warns them what would be the consequences if they should not participate in the election. "The people of Kansas, then, (he says) are invited by the highest authority known to the Constitution, to participate, freely and fairly, in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage authorize

those who do vote to act for them in that contingency ; and the absentees are as much bound, under the law and Constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative."

It may also be observed, that at this period any hope, if such had existed, that the Topeka constitution would ever be recognized by Congress, must have been abandoned. Congress had adjourned on the 3d March previous, having recognized the legal existence of the territorial legislature in a variety of forms, which I need not enumerate. Indeed, the delegate elected to the House of Representatives, under a territorial law, had been admitted to his seat, and had just completed his term of service on the day previous to my inauguration.

This was the propitious moment for settling all difficulties in Kansas. This was the time for abandoning the revolutionary Topeka organization, and for the enemies of the existing government to conform to the laws, and to unite with its friends in framing a State constitution. But this they refused to do, and the consequences of their refusal to submit to lawful authority and vote at the election of delegates may yet prove to be of a most deplorable character. Would that the respect for the laws of the land which so eminently distinguished the men of the past generation could be revived ! It is a disregard and violation of law which have for years kept the Territory of Kansas in a state of almost open rebellion against its government. It is the same spirit which has produced actual rebellion in Utah. Our only safety consists in obedience and conformity to law. Should a general spirit against its enforcement prevail, this will prove fatal to us as a nation. We acknowledge no master but the law ; and should we cut loose from its restraints, and every one do what seemeth good in his own eyes, our case will indeed be hopeless.

The enemies of the territorial government determined still to resist the authority of Congress. They refused to vote for delegates to the convention, not because, from circumstances

which I need not detail, there was an omission to register the comparatively few voters who were inhabitants of certain counties of Kansas in the early spring of 1857, but because they had predetermined, at all hazards, to adhere to their revolutionary organization, and defeat the establishment of any other constitution than that which they had framed at Topeka. The election was, therefore, suffered to pass by default ; but of this result the qualified electors who refused to vote can never justly complain.

From this review, it is manifest that the Lecompton convention, according to every principle of constitutional law, was legally constituted and was invested with power to frame a constitution.

The sacred principle of popular sovereignty has been invoked in favor of the enemies of law and order in Kansas. But in what manner is popular sovereignty to be exercised in this country, if not through the instrumentality of established law ? In certain small republics of ancient times the people did assemble in primary meetings, passed laws, and directed public affairs. In our country this is manifestly impossible. Popular sovereignty can be exercised here only through the ballot-box ; and if the people will refuse to exercise it in this manner, as they have done in Kansas at the election of delegates, it is not for them to complain that their rights have been violated.

The Kansas convention, thus lawfully constituted, proceeded to frame a constitution, and, having completed their work, finally adjourned on the 7th day of November last. They did not think proper to submit the whole of this constitution to a popular vote, but they did submit the question whether Kansas should be a free or a slave State to the people. This was the question which had convulsed the Union and shaken it to its very centre. This was the question which had lighted up the flames of civil war in Kansas, and had produced dangerous sectional parties throughout the confederacy. It was of a character so paramount in respect to the condition of Kansas as to rivet the anxious attention of the people of the whole country upon it, and it alone. No person thought of any other question. For my own part, when I instructed

Governor Walker, in general terms, in favor of submitting the constitution to the people, I had no object in view except the all-absorbing question of slavery. In what manner the people of Kansas might regulate their other concerns was not a subject which attracted any attention. In fact, the general provisions of our recent State constitutions, after an experience of eighty years, are so similar and so excellent that it would be difficult to go far wrong at the present day in framing a new constitution.

I then believed, and still believe, that, under the organic act, the Kansas convention were bound to submit this all-important question of slavery to the people. It was never, however, my opinion that, independently of this act, they would have been bound to submit any portion of the constitution to a popular vote, in order to give it validity. Had I entertained such an opinion, this would have been in opposition to many precedents in our history, commencing in the very best age of the republic. It would have been in opposition to the principle which pervades our institutions, and which is every day carried out into practice, that the people have the right to delegate to representatives, chosen by themselves, their sovereign power to frame constitutions, enact laws, and perform many other important acts, without requiring that these should be subjected to their subsequent approbation. It would be a most inconvenient limitation of their own power, imposed by the people upon themselves, to exclude them from exercising their sovereignty in any lawful manner they think proper. It is true that the people of Kansas might, if they had pleased, have required the convention to submit the constitution to a popular vote; but this they have not done. The only remedy, therefore, in this case, is that which exists in all other similar cases. If the delegates who framed the Kansas constitution have in any manner violated the will of their constituents, the people always possess the power to change their constitution or their laws, according to their own pleasure.

The question of slavery was submitted to an election of the people of Kansas on the 21st December last, in obedience to the mandate of the Constitution. Here, again, a fair oppor-

tunity was presented to the adherents of the Topeka constitution, if they were the majority, to decide this exciting question "in their own way," and thus restore peace to the distracted Territory; but they again refused to exercise their right of popular sovereignty, and again suffered the election to pass by default.

I heartily rejoice that a wiser and better spirit prevailed among a large majority of these people on the first Monday of January; and that they did, on that day, vote under the Lecompton constitution for a governor and other State officers, a member of Congress, and for members of the legislature. This election was warmly contested by the parties, and a larger vote was polled than at any previous election in the Territory. We may now reasonably hope that the revolutionary Topeka organization will be speedily and finally abandoned, and this will go far towards the final settlement of the unhappy differences in Kansas. If frauds have been committed at this election, either by one or both parties, the legislature and the people of Kansas, under their constitution, will know how to redress themselves and punish these detestable but too common crimes without any outside interference.

The people of Kansas have, then, "in their own way," and in strict accordance with the organic act, framed a constitution and State government; have submitted the all-important question of slavery to the people, and have elected a governor, a member to represent them in Congress, members of the State legislature, and other State officers. They now ask admission into the Union under this constitution, which is republican in its form. It is for Congress to decide whether they will admit or reject the State which has thus been created. For my own part, I am decidedly in favor of its admission, and thus terminating the Kansas question. This will carry out the great principle of non-intervention recognized and sanctioned by the organic act, which declares in express language in favor of "non-intervention by Congress with slavery in the States or Territories," leaving "the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." In this manner, by localizing the

question of slavery, and confining it to the people whom it immediately concerned, every patriot anxiously expected that this question would be banished from the halls of Congress, where it has always exerted a baneful influence throughout the whole country.

It is proper that I should briefly refer to the election held under an act of the territorial legislature, on the first Monday of January last, on the Lecompton constitution. This election was held after the Territory had been prepared for admission into the Union as a sovereign State, and when no authority existed in the territorial legislature which could possibly destroy its existence or change its character. The election, which was peaceably conducted under my instructions, involved a strange inconsistency. A large majority of the persons who voted against the Lecompton constitution were at the very same time and place recognizing its valid existence in the most solemn and authentic manner, by voting under its provisions. I have yet received no official information of the result of this election.

As a question of expediency, after the right has been maintained, it may be wise to reflect upon the benefits to Kansas and to the whole country which would result from its immediate admission into the Union, as well as the disasters which may follow its rejection. Domestic peace will be the happy consequence of its admission, and that fine Territory, which has hitherto been torn by dissensions, will rapidly increase in population and wealth, and speedily realize the blessings and the comforts which follow in the train of agricultural and mechanical industry. The people will then be sovereign, and can regulate their own affairs in their own way. If a majority of them desire to abolish domestic slavery within the State, there is no other possible mode by which this can be effected so speedily as by prompt admission. The will of the majority is supreme and irresistible when expressed in an orderly and lawful manner. They can make and unmake constitutions at pleasure. It would be absurd to say that they can impose fetters upon their own power which they cannot afterwards remove. If they could do this, they might tie their own hands for a hundred as well as for ten years. These are fun-

damental principles of American freedom, and are recognized, I believe, in some form or other, by every State constitution ; and if Congress, in the act of admission, should think proper to recognize them, I can perceive no objection to such a course. This has been done emphatically in the constitution of Kansas. It declares in the bill of rights that " all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit, and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper." The great State of New York is at this moment governed under a constitution framed and established in direct opposition to the mode prescribed by the previous constitution. If, therefore, the provision changing the Kansas constitution, after the year one thousand eight hundred and sixty-four, could by possibility be construed into a prohibition to make such a change previous to that period, this prohibition would be wholly unavailing. The legislature already elected may, at its very first session, submit the question to a vote of the people whether they will or will not have a convention to amend their constitution and adopt all necessary means for giving effect to the popular will.

It has been solemnly adjudged by the highest judicial tribunal known to our laws, that slavery exists in Kansas by virtue of the Constitution of the United States. Kansas is, therefore, at this moment as much a slave State as Georgia or South Carolina. Without this the equality of the sovereign States composing the Union would be violated, and the use and enjoyment of a Territory acquired by the common treasure of all the States would be closed against the people and the property of nearly half the members of the confederacy. Slavery can therefore never be prohibited in Kansas except by means of a constitutional provision, and in no other manner can this be obtained so promptly, if a majority of the people desire it, as by admitting it into the Union under its present constitution.

On the other hand, should Congress reject the constitution, under the idea of affording the disaffected in Kansas a third opportunity of prohibiting slavery in the State, which they

might have done twice before if in the majority, no man can foretell the consequences.

If Congress, for the sake of those men who refused to vote for delegates to the convention when they might have excluded slavery from the constitution, and who afterwards refused to vote on the 21st December last, when they might, as they claim, have stricken slavery from the constitution, should now reject the State because slavery remains in the constitution, it is manifest that the agitation upon this dangerous subject will be renewed in a more alarming form than it has ever yet assumed.

Every patriot in the country had indulged the hope that the Kansas and Nebraska act would put a final end to the slavery agitation, at least in Congress, which had for more than twenty years convulsed the country and endangered the Union. This act involved great and fundamental principles, and if fairly carried into effect will settle the question. Should the agitation be again revived, should the people of the sister States be again estranged from each other with more than their former bitterness, this will arise from a cause, so far as the interests of Kansas are concerned, more trifling and insignificant than has ever stirred the elements of a great people into commotion. To the people of Kansas, the only practical difference between admission or rejection depends simply upon the fact whether they can themselves more speedily change the present constitution if it does not accord with the will of the majority, or frame a second constitution to be submitted to Congress hereafter. Even if this were a question of mere expediency, and not of right, the small difference of time, one way or the other, is of not the least importance, when contrasted with the evils which must necessarily result to the whole country from a revival of the slavery agitation.

In considering this question, it should never be forgotten that, in proportion to its insignificance, let the decision be what it may, so far as it may affect the few thousand inhabitants of Kansas, who have from the beginning resisted the constitution and the laws, for this very reason the rejection of the constitution will be so much the more keenly felt by the people of fourteen of the States of this Union, where slavery is recognized under the Constitution of the United States.

Again : The speedy admission of Kansas into the Union would restore peace and quiet to the whole country. Already the affairs of this Territory have engrossed an undue proportion of public attention. They have sadly affected the friendly relations of the people of the States with each other, and alarmed the fears of patriots for the safety of the Union. Kansas once admitted into the Union, the excitement becomes localized, and will soon die away for want of outside aliment. Then every difficulty will be settled at the ballot-box.

Besides—and this is no trifling consideration—I shall then be enabled to withdraw the troops of the United States from Kansas, and employ them on branches of service where they are much needed. They have been kept there, on the earnest importunity of Governor Walker, to maintain the existence of the territorial government and secure the execution of the laws. He considered that at least two thousand regular troops, under the command of General Harney, were necessary for this purpose. Acting upon his reliable information, I have been obliged, in some degree, to interfere with the expedition to Utah, in order to keep down rebellion in Kansas. This has involved a very heavy expense to the government. Kansas once admitted, it is believed there will no longer be any occasion there for troops of the United States.

I have thus performed my duty on this important question, under a deep sense of responsibility to God and my country. My public life will terminate within a brief period ; and I have no other object of earthly ambition than to leave my country in a peaceful and prosperous condition, and to live in the affections and respect of my countrymen. The dark and ominous clouds which now appear to be impending over the Union, I conscientiously believe may be dissipated with honor to every portion of it by the admission of Kansas during the present session of Congress ; whereas, if she should be rejected, I greatly fear these clouds will become darker and more ominous than any which have ever yet threatened the Constitution and the Union.

JAMES BUCHANAN.

WASHINGTON, *February 2*, 1858.

SPECIAL MESSAGE OF THE PRESIDENT ON UTAH AFFAIRS.

Difficulties with that Territory happily terminated, and there will be no occasion for any appropriation for the two regiments authorized by Congress.

To the Senate and House of Representatives :

I transmit the copy of a despatch from Governor Cumming to the Secretary of State, dated at Great Salt Lake City, on the 2d of May, and received at the Department of State on yesterday. From this there is reason to believe that our difficulties with the Territory of Utah have terminated, and the reign of the Constitution and the laws has been restored. I congratulate you on this auspicious event.

I lose no time in communicating this information, and in expressing the opinion that there will now be no occasion to make any appropriation for the purpose of calling into service the two regiments of volunteers authorized by the act of Congress approved on the 7th April last, "For the purpose of quelling disturbances in the Territory of Utah, for the protection of supply and emigrant trains, and the suppression of Indian hostilities on the frontiers."

I am the more gratified at this satisfactory intelligence from Utah, because it will afford some relief to the Treasury at a time demanding from us the strictest economy, and when the question which now arises upon every new appropriation is, whether it be of a character so important and urgent as to brook no delay, and to justify and require a loan, and most probably a tax upon the people to raise the money necessary for its payment.

In regard to the regiment of volunteers authorized by the same act of Congress to be called into service for the defence

of the frontiers of Texas against Indian hostilities, I desire to leave this question to Congress, observing at the same time that, in my opinion, this State can be defended for the present by the regular troops, which have not yet been withdrawn from its limits.

JAMES BUCHANAN.

WASHINGTON CITY, *June* 10, 1858.

SPECIAL MESSAGE ON THE ACQUISITION OF CUBA.

To the Senate :

I transmit herewith a report from the Secretary of State, in answer to a resolution of the Senate of the 18th instant, requesting the President, if not incompatible with the public interest, "to communicate to the Senate any and all correspondence between the Government of the United States and the Government of Her Catholic Majesty relating to the purchase of the Island of Cuba, which correspondence has not been furnished to either House of Congress." From this it appears that no such correspondence has taken place which has not already been communicated to Congress. In my late annual message, I stated in reference to the purchase of Cuba, that, "The publicity which has been given to our former negotiations on this subject, and the large appropriation which may be required to effect the purpose, render it expedient, before making another attempt to renew the negotiation, that I should lay the whole subject before Congress." I still entertain the same opinion, deeming it highly important, if not indispensable for this purpose to the success of any negotiation which I might institute for this purpose, that the measure should receive the previous sanction of Congress.

JAMES BUCHANAN.

SPECIAL MESSAGE ON THE CONDITION OF THE TREASURY.

To the Senate and House of Representatives :

I feel it to be an indispensable duty to call your attention to the condition of the Treasury. On the 19th of May last, the Secretary of the Treasury submitted a report to Congress "on the present condition of the finances of the Government." In this report he states that, after a call upon the heads of Departments, he had received official information that the sum of \$37,000,000 would probably be required during the first two quarters of the next fiscal year, from the 1st of July to the 1st of January. "This sum," the Secretary says, "does not include such amounts as may be appropriated by Congress over and above the estimates submitted to them by the Departments, and I have no data on which to estimate for such expenditures. Upon this point Congress is better able to form a correct opinion than I am."

The Secretary then estimates that the receipts into the Treasury from all sources, between the 1st of July and the 1st of January, would amount to \$25,000,000, leaving a deficit of \$15,000,000, inclusive of the sum of about three million dollars, the least amount required to be in the Treasury at all times to secure its successful operation. For this amount he recommends a loan. This loan, it will be observed, was required, after a close calculation, to meet the estimates from the different Departments, and not such appropriations as might be made by Congress over and above these estimates.

There were embraced in this sum of \$15,000,000 estimates to the amount of about one million seven hundred and fifty thousand dollars for the three volunteer regiments authorized by the act of Congress approved April 7, 1858, for two of which, if not for the third, no appropriation will now be re-

quired. To this extent a portion of the loan of \$15,000,000 may be applied to pay the appropriations made by Congress beyond the estimates from the different Departments referred to in the report of the Secretary of the Treasury.

To what extent a probable deficiency may exist in the Treasury between the 1st July and the 1st January next, cannot be ascertained until the appropriation bills, as well as the private bills containing appropriations, shall have finally passed.

Adversity teaches useful lessons to nations as well as to individuals. The habit of extravagant expenditures, fostered by a large surplus in the Treasury, must now be corrected, or the country will be involved in serious financial difficulties.

Under any form of government extravagance in expenditure must be the natural consequence when those who authorize the expenditure feel no responsibility in providing the means of payment. Such had been, for a number of years, our condition previous to the late monetary revulsion in the country. Fortunately, at least for the cause of public economy, the case is now reversed; and to the extent of the appropriations, whatever these may be, engrafted on the different appropriation bills, as well as those made by private bills, over and above the estimates of the different Departments, it will be necessary for Congress to provide the means of payment before their adjournment. Without this, the Treasury will be exhausted before the 1st January, and the public credit will be seriously impaired. This disgrace must not fall upon the country.

It is impossible for me, however, now to ascertain this amount; nor does there at present seem to be the least probability that this can be done, and the necessary means provided by Congress to meet any deficiency which may exist in the Treasury before Monday next at twelve o'clock, the hour fixed for adjournment, it being now Sunday morning at half-past eleven o'clock. To accomplish this object, the appropriation bills, as they shall have finally passed Congress, must be before me, and time must be allowed to ascertain the amount of the moneys appropriated, and to enable Congress to provide the necessary means. At this writing it is understood

that several of these bills are yet before the committees of conference, and the amendments to some of them have not even been printed.

Foreseeing that such a state of things might exist at the close of the session, I stated, in the annual message to Congress, of December last, that "from the practice of Congress such an examination of each bill as the Constitution requires has been rendered impossible. The most important business of each session is generally crowded into its last hours, and the alternative presented to the President is either to violate the constitutional duty which he owes to the people, and approve bills which, for want of time, it is impossible he should have examined, or, by his refusal to do this, subject the country and individuals to great loss and inconvenience." . . .

"For my own part, I have deliberately determined that I shall approve no bills which I have not examined ; and it will be a case of extreme and most urgent necessity which shall ever induce me to depart from this rule."

The present condition of the Treasury absolutely requires that I should adhere to this resolution on the present occasion for the reasons which I have heretofore presented.

In former times it was believed to be the true character of an appropriation bill simply to carry into effect existing laws, and the established policy of the country. A practice has, however, grown up of late years to ingraft on such bills, at the last hours of the session, large appropriations for new and important objects not provided for by preëxisting laws, and when no time is left to the Executive for their examination and investigation. No alternative is thus left to the President but either to approve measures without examination, or, by vetoing an appropriation bill, seriously to embarrass the operations of the Government. This practice could never have prevailed without a surplus in the Treasury sufficiently large to cover an indefinite amount of appropriations. Necessity now compels us to arrest it, at least so far as to afford time to ascertain the amount appropriated, and to provide the means of its payment.

For all these reasons, I recommend to Congress to postpone

the day of adjournment for a brief period. I promise that not an hour shall be lost in ascertaining the amount of appropriations made by them for which it will be necessary to provide. I know it will be inconvenient for the members to attend a called session, and this, above all things, I desire to avoid.

JAMES BUCHANAN.

WASHINGTON CITY, *June* 12, 1858.

SPECIAL MESSAGE OF THE PRESIDENT—
CALIFORNIA MAILS.

To the House of Representatives :

On the last day of the last session of Congress, as appears by the Journal of the House of Representatives, "a joint resolution in regard to the carrying of the United States mails from Saint Joseph, Missouri, to Placerville, California," was presented to me for my approval. This resolution authorized and directed the Postmaster General "to order an increase of speed upon said route, requiring the mails to be carried through in thirty days, instead of thirty-eight days, according to the existing contract: *Provided*, The same can be done upon a *pro rata* increase of compensation to the contractors." I did not approve this joint resolution: First, because it was presented to me at so late a period that I had not the time necessary, on the day of the adjournment of the last session, for an investigation of the subject. Besides, no injury could result to the public, as the Postmaster General already possessed the discretionary power, under existing laws, to increase the speed upon this as well as all other mail routes.

Second. Because the Postmaster-General, at the moment in the Capitol, informed me that the contractors themselves had offered to increase the speed on this route to thirty instead of thirty-eight days, at a less cost than that authorized by the joint resolution. Upon subsequent examination, it has been ascertained at the Post-Office Department that their bid, which is still pending, proposes to perform this service for a sum less by \$49,000 than that authorized by the resolution.

JAMES BUCHANAN.

January 7, 1859.

SPECIAL MESSAGE OF THE PRESIDENT ON THE PROTECTION OF THE TRANSIT ROUTES ACROSS THE ISTHMUS.

The President urges appropriate legislation for the protection of American citizens and their property, while in transit across the Isthmus between our Atlantic and Pacific possessions.—Revolutionary parties seize and confiscate American vessels and cargoes in an arbitrary and lawless manner, and exact forced loans.—The executives of Great Britain, France, and other countries, possessing the war-making power, promptly enforce immediate redress.—The Executive of the United States cannot do so, and the commanders of our war vessels can only remonstrate.—American citizens thus deprived of the protection under our flag which the subjects of other nations enjoy.—Congress alone can remedy this by clothing the Executive with power to protect our citizens.—Such a limited authority not unconstitutional.—The knowledge of the existence of such a law would go far to prevent such outrages.

To the Senate and House of Representatives :

The brief period which remains of your present session, and the great urgency and importance of legislative action, before its termination, for the protection of American citizens and their property whilst in transit across the Isthmus routes between our Atlantic and Pacific possessions, render it my duty again to recall this subject to your notice. I have heretofore presented it in my annual messages, both in December, 1857 and 1858, to which I beg leave to refer. In the latter, I stated that “ The Executive Government of this country, in its intercourse with foreign nations, is limited to the employment of diplomacy alone. When this fails it can proceed no further. It cannot legitimately resort to force, without the direct authority of Congress, except in resisting and repelling hostile attacks. It would have no authority to enter the territories of Nicaragua even to prevent the destruction of the transit, and protect the lives and property of our own citizens on their passage. It is true that, on a sudden emergency of this character, the President would direct any armed force in

the vicinity to march to their relief ; but, in doing this, he would act upon his own responsibility.

“ Under these circumstances, I earnestly recommend to Congress the passage of an act authorizing the President, under such restrictions as they may deem proper, to employ the land and naval forces of the United States in preventing the transit from being obstructed or closed by lawless violence, and in protecting the lives and property of American citizens travelling thereupon, requiring, at the same time, that these forces shall be withdrawn the moment the danger shall have passed away. Without such a provision, our citizens would be constantly exposed to interruption in their progress, and to lawless violence.

“ A similar necessity exists for the passage of such an act for the protection of the Panama and Tehuantepec routes.” Another subject, equally important, commanded the attention of the Senate at the last session of Congress.

The republics south of the United States on this continent have unfortunately been frequently in a state of revolution and civil war ever since they achieved their independence. As one or the other party has prevailed, and obtained possession of the ports open to foreign commerce, they have seized and confiscated American vessels and their cargoes in an arbitrary and lawless manner, and exacted money from American citizens by forced loans, and other violent proceedings, to enable them to carry on hostilities. The Executive Governments of Great Britain, France, and other countries, possessing the war-making power, can promptly employ the necessary means to enforce immediate redress for similar outrages upon their subjects. Not so the Executive Government of the United States.

If the President orders a vessel of war to any of these ports to demand prompt redress for outrages committed, the offending parties are well aware that, in case of refusal, the commander can do no more than remonstrate. He can resort to no hostile act. The question must then be referred to diplomacy, and in many cases adequate redress can never be obtained. Thus, American citizens are deprived of the same protection under the flag of their country which the subjects

of other nations enjoy. The remedy for this state of things can only be supplied by Congress, since the Constitution has confided to that body alone the power to make war. Without the authority of Congress, the Executive cannot lawfully direct any force, however near it may be to the scene of difficulty, to enter the territory of Mexico, Nicaragua or New Granada, for the purpose of defending the persons and property of American citizens, even though they may be violently assailed whilst passing in peaceful transit over the Tehuantepec, Nicaragua or Panama routes. He cannot, without transcending his constitutional power, direct a gun to be fired into a port, or land a seaman or marine to protect the lives of our countrymen on shore, or to obtain redress for a recent outrage on their property. The banditti which infest our neighboring Republic of Mexico, always claiming to belong to one or other of the hostile parties, might make a sudden descent on Vera Cruz, or on the Tehuantepec route, and he would have no power to employ the force on shipboard in the vicinity for their relief, either to prevent the plunder of our merchants or the destruction of the transit.

In reference to countries where the local authorities are strong enough to enforce the laws, the difficulty here indicated can seldom happen ; but were this not the case, and the local authorities do not possess the physical power, even if they possess the will, to protect our citizens within their limits, recent experience has shown that the American Executive should itself be authorized to render this protection. Such a grant of authority, thus limited in its extent, could in no just sense be regarded as a transfer of the war-making power to the Executive, but only as an appropriate exercise of that power by the body to whom it exclusively belongs. The riot in Panama, in 1856, in which a great number of our citizens lost their lives, furnishes a pointed illustration of the necessity which may arise for the exertion of this authority.

I therefore earnestly recommend to Congress, on whom the responsibility exclusively rests, to pass a law before their adjournment, conferring on the President the power to protect the lives and property of American citizens in the cases which I have indicated, under such restrictions and conditions as they

may deem advisable. The knowledge that such a law exists would of itself go far to prevent the outrages which it is intended to redress, and to render the employment of force unnecessary.

Without this, the President may be placed in a painful position before the meeting of the next Congress. In the present disturbed condition of Mexico, and one or more of the other Republics south of us, no person can foresee what occurrences may take place before that period. In case of emergency, our citizens, seeing that they do not enjoy the same protection with subjects of European Governments, will have just cause to complain. On the other hand, should the Executive interpose, and especially should the result prove disastrous, and valuable lives be lost, he might subject himself to severe censure for having assumed a power not confided to him by the Constitution. It is to guard against this contingency that I now appeal to Congress.

Having thus recommended to Congress a measure which I deem necessary and expedient for the interest and honor of the country, I leave the whole subject to their wisdom and discretion.

JAMES BUCHANAN.

WASHINGTON, *February* 18, 1859.

SPECIAL MESSAGE OF THE PRESIDENT,

RETURNING WITH HIS OBJECTIONS A BILL DONATING PUBLIC LANDS TO THE SEVERAL STATES AND TERRITORIES WHICH MIGHT PROVIDE COLLEGES FOR THE BENEFIT OF AGRICULTURE AND THE MECHANIC ARTS.

This bill donates six million and sixty thousand acres of the minimum value of \$7,575,000.—Review of the provisions of the bill.—The effect of this bill, if a law, would be to deprive the Treasury for the coming year of an estimated income of \$5,000,000, and this at a time the Government can with difficulty raise sufficient revenue.—Bounty land warrants have already reduced the sales of public lands greatly, and the scrip proposed by this bill would dry up this source of revenue.—Such a grant injurious to the relations between the Federal and State Governments.—Review of their several functions.—Demoralizing effect of such grants.—In a war with a great naval power these lands would furnish the Government a basis for effecting loans by pledge.—Injury to new States by this scrip enabling speculators to acquire large tracts, and compelling settlers to buy from them at increased prices.—The Federal Government has no Constitutional power to follow the grant into the States, and enforce its application to the intended object.—The surplus deposit of 1836.—It would injure existing colleges.—Congress does not possess the Constitutional power to appropriate money or lands for educating the people of the States.—Meaning of the words “dispose of” used by the Constitution.—To make them mean “give away,” would be to confer on Congress a vast and irresponsible power.—The meaning as stated by Chief-Justice Taney in the Supreme Court decision (19 Howard, p. 436).—If Congress has no power to appropriate money raised by taxation to such an object, the conversion of this money into land would not enable Congress to do so indirectly.—This doctrine applied to the lands within the Louisiana and Florida purchases.—Grants which the United States, as a great and prudent landed proprietor, might make to enhance the value of the remainder.

To the House of Representatives of the United States :

I return, with my objections, to the House of Representatives, in which it originated, the bill entitled “An act donating public lands to the several States and Territories which

may provide colleges for the benefit of agriculture and the mechanic arts," presented to me on the 18th instant.

This bill makes a donation to the several States of twenty thousand acres of the public lands for each Senator and Representative in the present Congress, and also an additional donation of twenty thousand acres for each additional Representative to which any State may be entitled under the census of 1860.

According to a report from the Interior Department, based upon the present number of Senators and Representatives, the lands given to the States amount to six million and sixty thousand acres, and their value, at the minimum Government price of \$1.25 per acre, to \$7,575,000.

The object of this gift, as stated by the bill, is "the endowment, support, and maintenance of at least one college [in each State] where the leading object shall be, without excluding other scientific or classical studies, to teach such branches of learning as are related to agriculture and the mechanic arts, as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life."

As there does not appear from the bill to be any beneficiaries in existence to which this endowment can be applied, each State is required "to provide, within five years at least, not less than one college, or the grant to said State shall cease." In that event the "said State shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid."

The grant in land itself is confined to such States as have public lands within their limits worth \$1.25 per acre, in the opinion of the governor. For the remaining States the Secretary of the Interior is directed to issue "land scrip to the amount of their distributive shares in acres under the provisions of this act, said scrip to be sold by said States, and the proceeds thereof applied to the uses and purposes prescribed in this act, and for no other use or purpose whatsoever." The lands are granted and the scrip is to be issued "in sec-

tions or subdivisions of sections of not less than one-quarter of a section."

According to an estimate from the Interior Department, the number of acres which will probably be accepted by States having public lands within their own limits will not exceed five hundred and eighty thousand acres, and it may be much less, leaving a balance of five million four hundred and eighty thousand acres to be provided for by scrip. These grants of land and land scrip to each of the thirty-three States are made upon certain conditions, the principal of which is that if the fund shall be lost or diminished on account of unfortunate investments, or otherwise, the deficiency shall be replaced and made good by the respective States.

I shall now proceed to state my objections to this bill. I deem it to be both inexpedient and unconstitutional.

1. This bill has been passed at a period when we can with great difficulty raise sufficient revenue to sustain the expenses of the Government. Should it become a law the Treasury will be deprived of the whole, or nearly the whole, of our income from the sale of public lands, which, for the next fiscal year, has been estimated at \$5,000,000.

A bare statement of the case will make this evident. The minimum price at which we dispose of our lands is \$1.25 per acre. At the present moment, however, the price has been reduced to those who purchase the bounty-land warrants of the old soldiers to eighty-five cents per acre, and of these warrants there are still outstanding and unlocated, as appears by a report (February 12, 1859) from the General Land Office, the amount of eleven million nine hundred and ninety thousand three hundred and ninety-one acres. This has already greatly reduced the current sales by the Government and diminished the revenue from this source. If, in addition, thirty-three States shall enter the market with their land scrip, the price must be greatly reduced below even eighty-five cents per acre, as much to the prejudice of the old soldiers who have not already parted with their land warrants as to the Government. It is easy to perceive that with this glut of the market the Government can sell little or no lands at \$1.25 per acre, when the price of bounty-land warrants and scrip

shall be reduced to half this sum. This source of revenue will be almost entirely dried up. Under the bill the States may sell their land scrip at any price it may bring. There is no limitation whatever in this respect. Indeed, they must sell for what the scrip will bring, for without this fund they cannot proceed to establish their colleges within the five years to which they are limited. It is manifest, therefore, that to the extent to which this bill will prevent the sale of public lands at \$1.25 per acre, to that amount it will have precisely the same effect upon the Treasury as if we should impose a tax to create a loan to endow these State colleges.

Surely the present is the most unpropitious moment which could have been selected for the passage of this bill.

2. Waiving for the present the question of constitutional power, what effect will this bill have on the relations established between the Federal and State governments? The Constitution is a grant to Congress of a few enumerated but most important powers, relating chiefly to war, peace, foreign and domestic commerce, negotiation, and other subjects which can be best or alone exercised beneficially by the common Government. All other powers are reserved to the States and to the people. For the efficient and harmonious working of both, it is necessary that their several spheres of action should be kept distinct from each other. This alone can prevent conflict and mutual injury. Should the time ever arrive when the State governments shall look to the Federal Treasury for the means of supporting themselves and maintaining their systems of education and internal policy, the character of both governments will be greatly deteriorated. The representatives of the States and of the people, feeling a more immediate interest in obtaining money to lighten the burdens of their constituents than for the promotion of the more distant objects intrusted to the Federal Government, will naturally incline to obtain means from the Federal Government for State purposes. If a question shall arise between an appropriation of land or money, to carry into effect the objects of the Federal Government and those of the States, their feelings will be enlisted in favor of the latter. This is human nature; and hence the necessity of keeping the two govern-

ments entirely distinct. The preponderance of this home feeling has been manifested by the passage of the present bill. The establishment of these colleges has prevailed over the pressing wants of the common treasury. No nation ever had such an inheritance as we possess in the public lands. These ought to be managed with the utmost care, but, at the same time, with a liberal spirit toward actual settlers.

In the first year of a war with a powerful naval nation the revenue from customs must, in a great degree, cease. A resort to loans will then become necessary, and these can always be obtained, as our fathers obtained them, on advantageous terms, by pledging the public lands as security. In this view of the subject, it would be wiser to grant money to the States for domestic purposes than to squander away the public lands, and transfer them in large bodies into the hands of speculators.

A successful struggle on the part of the State governments with the General Government for the public lands would deprive the latter of the means of performing its high duties, especially at critical and dangerous periods. Besides, it would operate with equal detriment to the best interests of the States. It would remove the most wholesome of all restraints on legislative bodies—that of being obliged to raise money by taxation from their constituents—and would lead to extravagance, if not to corruption. What is obtained easily and without responsibility will be lavishly expended.

3. This bill, should it become a law, will operate greatly to the injury of the new States. The progress of settlements and the increase of an industrious population, owning an interest in the soil they cultivate, are the causes which will build them up into great and flourishing commonwealths. Nothing could be more prejudicial to their interests than for wealthy individuals to acquire large tracts of the public land and hold them for speculative purposes. The low price to which this land scrip will probably be reduced will tempt speculators to buy it in large amounts, and locate it on the best lands belonging to the Government. The eventual consequence must be, that the men who desire to cultivate the soil will be compelled to purchase these very lands at rates much

higher than the price at which they could be obtained from the Government.

4. It is extremely doubtful, to say the least, whether this bill would contribute to the advancement of agriculture and the mechanic arts—objects the dignity and value of which cannot be too highly appreciated.

The Federal Government which makes the donation has confessedly no constitutional power to follow it into the States and enforce the application of the fund to the intended objects. As donors, we shall possess no control over our own gift after it shall have passed from our hands. It is true that the State legislatures are required to stipulate that they will faithfully execute the trust in the manner prescribed by the bill. But should they fail to do this, what would be the consequence? The Federal Government has no power, and ought to have no power, to compel the execution of the trust. It would be in as helpless a condition as if even in this, the time of great need, we were to demand any portion of the many millions of surplus revenue deposited with the States for safe-keeping under the act of 1836.

5. This bill will injuriously interfere with existing colleges in the different States, in many of which agriculture is taught as a science, and in all of which it ought to be so taught. These institutions of learning have grown up with the growth of the country under the fostering care of the States and the munificence of individuals to meet the advancing demands for education. They have proved great blessings to the people. Many, indeed most of them, are poor, and sustain themselves with difficulty. What the effect will be on these institutions of creating an indefinite number of rival colleges, sustained by the endowment of the Federal Government, it is not difficult to determine.

Under this bill it is provided, that scientific and classical studies shall not be excluded from them. Indeed, it would be almost impossible to sustain them without such a provision, for no father would incur the expense of sending a son to one of these institutions for the sole purpose of making him a scientific farmer or mechanic. The bill itself negatives this idea, and declares that their object is “to promote the liberal

and practical education of the industrial classes in the several pursuits and professions of life." This certainly ought to be the case. In this view of the subject it would be far better, if such an appropriation of lands must be made to institutions of learning in the several States, to apply it directly to the establishment of professorships of agriculture and the mechanic arts in existing colleges without the intervention of the State legislatures. It would be difficult to foresee how these legislatures will manage this fund. Each Representative in Congress for whose district the proportion of twenty thousand acres has been granted will probably insist that the proceeds shall be expended within its limits. There will undoubtedly be a struggle between different localities in each State concerning the division of the gift, which may end in disappointing the hopes of true friends of agriculture. For this state of things we are without remedy. Not so in regard to State colleges. We might grant land to these corporations to establish agricultural and mechanical professorships; and, should they fail to comply with the conditions on which they accepted the grant, we might enforce specific performance of these before the ordinary courts of justice.

6. But does Congress possess the power, under the Constitution, to make a donation of public lands to the different States of the Union, to provide colleges for the purpose of educating their own people?

I presume the general proposition is undeniable, that Congress does not possess the power to appropriate money in the Treasury, raised by taxes on the people of the United States, for the purpose of educating the people of the respective States. It will not be pretended that any such power is to be found among the specific powers granted to Congress, nor that "it is necessary and proper for carrying into execution" any one of these powers. Should Congress exercise such a power, this would be to break down the barriers which have been so carefully constructed in the Constitution to separate Federal from State authority. We should then not only "lay and collect taxes, duties, imposts, and excises," for Federal purposes, but for every State purpose which Congress might deem expedient or useful. This would be an actual

consolidation of the Federal and State governments, so far as the great taxing and money power is concerned, and constitute a sort of partnership between the two in the Treasury of the United States, equally ruinous to both.

But it is contended that the public lands are placed upon a different footing from money raised by taxation, and that the proceeds arising from their sale are not subject to the limitations of the Constitution, but may be appropriated or given away by Congress, at its own discretion, to States, corporations, or individuals, for any purpose they may deem expedient.

The advocates of this bill attempt to sustain their position upon the language of the second clause of the third section of the fourth article of the Constitution, which declares that "the Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory, or other property belonging to the United States." They contend that by a fair interpretation of the words "dispose of" in this clause, Congress possesses the power to make this gift of public lands to the States for purposes of education.

It would require clear and strong evidence to induce the belief that the framers of the Constitution, after having limited the powers of Congress to certain, precise, and specific objects intended by employing the words "dispose of," to give that body unlimited power over the vast public domain. It would be a strange anomaly, indeed, to have created two funds—the one by taxation, confined to the execution of the enumerated powers delegated to Congress, and the other from the public lands, applicable to all subjects, foreign and domestic, which Congress might designate. That this fund should be "disposed of," not to pay the debts of the United States, nor "to raise and support armies," nor "to provide and maintain a navy," nor to accomplish any one of the other great objects enumerated in the Constitution; but be diverted from them to pay the debts of the States, to educate their people, and to carry into effect any other measure of their domestic policy. This would be to confer upon Congress a vast and irresponsible authority, utterly at war with the well-known jealousy of Federal power which prevailed at the formation of

the Constitution. The natural intendment would be, that as the Constitution confined Congress to well-defined specific powers, the funds placed at their command, whether in land or money, should be appropriated to the performance of the duties corresponding with these powers. If not, a Government has been created with all its other powers carefully limited, but without any limitation in respect to the public lands.

But I cannot so read the words "dispose of" as to make them embrace the idea of "giving away." The true meaning of words is always to be ascertained by the subject to which they are applied, and the known general intent of the law-giver. Congress is a trustee under the Constitution for the people of the United States to "dispose of" their public lands, and I think I may venture to assert with confidence, that no case can be found in which a trustee in the position of Congress has been authorized to "dispose of" property by its owner, where it has been held that these words authorized such trustee to give away the fund intrusted to his care. No trustee, when called upon to account for the disposition of the property placed under his management before any judicial tribunal, would venture to present such a plea in his defence. The true meaning of these words is clearly stated by Chief Justice Taney, in delivering the opinion of the court (19 Howard, page 436). He says, in reference to this clause of the Constitution, "it begins its enumeration of powers by that of disposing; in other words, making sale of the lands, or raising money from them, which, as we have already said, was the main object of the cession (from the States), and which is the first thing provided for in the article." It is unnecessary to refer to the history of the times to establish the known fact that this statement of the Chief Justice is perfectly well founded. That it never was intended by the framers of the Constitution that these lands should be given away by Congress is manifest from the concluding portion of the same clause. By it Congress has power not only "to dispose of" the territory, but of the "other property of the United States." In the language of the Chief Justice (page 437): "And the same power of making needful rules respecting the territory is in precisely the same language applied to

the other property of the United States, associating the power over the territory in this respect with the power over movable or personal property ; that is, the ships, arms, or munitions of war which then belonged in common to the State sovereignties.”

The question is still clearer in regard to the public lands in the States and Territories within the Louisiana and Florida purchases. These lands were paid for out of the public Treasury, from money raised by taxation. Now, if Congress had no power to appropriate the money with which these lands were purchased, is it not clear that the power over the lands is equally limited ? The mere conversion of this money into land could not confer upon Congress new power over the disposition of land which they had not possessed over money. If it could, then a trustee, by changing the character of the fund intrusted to his care for special objects, from money into land, might give the land away, or devote it to any purpose he thought proper, however foreign from the trust. The inference is irresistible, that this land partakes of the very same character with the money paid for it, and can be devoted to no objects different from those to which the money could have been devoted. If this were not the case, then, by the purchase of a new territory from a foreign Government, out of the public Treasury, Congress could enlarge their own powers and appropriate the proceeds of the sales of the land thus purchased, at their own discretion, to other and far different objects from what they could have applied the purchase money which had been raised by taxation.

It has been asserted truly that Congress, in numerous instances, have granted lands for the purposes of education. These grants have been chiefly, if not exclusively, made to the new States as they successively entered the Union, and consisted at the first of one section, and afterwards of two sections of the public land in each township for the use of schools, as well as of additional sections for a State university. Such grants are not, in my opinion, a violation of the Constitution. The United States is a great landed proprietor, and from the very nature of this relation it is both the right and the duty of Congress, as their trustee, to manage these

lands as any other prudent proprietor would manage them for his own best advantage. Now, no consideration could be presented of a stronger character to induce the American people to brave the difficulties and hardships of frontier life, and to settle upon these lands, and to purchase them at a fair price, than to give to them and to their children an assurance of the means of education. If any prudent individual had held these lands he could not have adopted a wiser course to bring them into market and enhance their value than to give a portion of them for purposes of education. As a mere speculation, he would pursue this course. No person will contend that donations of land to all the States of the Union for the erection of colleges within the limits of each can be embraced by this principle. It cannot be pretended that an agricultural college in New York or Virginia would aid the settlement or facilitate the sale of public lands in Minnesota or California. This cannot possibly be embraced within the authority which a prudent proprietor of land would exercise over his own possessions. I purposely avoid any attempt to define what portions of land may be granted, and for what purposes, to improve the value and promote the settlement and sale of the remainder without violating the Constitution. In this case I adopt the rule that "sufficient unto the day is the evil thereof."

JAMES BUCHANAN.

February 24, 1859.

SPECIAL MESSAGE OF THE PRESIDENT URGING
CONGRESS TO PROVIDE FOR THE PRESER-
VATION OF THE PUBLIC CREDIT,
IN THE FEW REMAINING
HOURS OF THE
SESSION.

To the Senate and House of Representatives :

An imperative sense of duty compels me to make an appeal to Congress to preserve the credit of the country. This is the last day of the present Congress, and no provision has yet been made for the payment of appropriations, and to meet the outstanding Treasury notes issued under the authority of law. From the information which has already been communicated to Congress by the Secretary of the Treasury, it is manifest that the ordinary receipts into the Treasury, even under the most favorable circumstances, will scarcely meet the ordinary expenses of the Government during the remainder of the present fiscal year, ending the 30th of June. At that time nearly eighteen millions of Treasury notes will have become due, and many of these, not yet due, are daily paid for duties at the different ports, and there will be no means in the Treasury to meet them. Thus the country, which is full of resources, will be dishonored before the world, and the American people, who are a debt-paying people, will be disgraced by the omission on our part to do our duty. It is impossible to avoid this catastrophe, unless we make provision this very day to meet the lawful demands on the public Treasury. If this were the first instead of the last session of a Congress, the case would be different. You might then be convened by proclamation for to-morrow morning. But there are now thirteen States of the Union entitled to seventy-eight Representatives, in which none have been elected. It will therefore be imprac-

ticable for a large majority of these States to elect their members before the Treasury shall be compelled to stop payment.

Under these circumstances, I earnestly recommend to Congress to make provision within the few remaining hours of the session for the preservation of the public credit. The urgency of the case not only justifies, but demands that, if necessary, this shall be done by a separate bill. We ought to incur no risk when the good faith of the country is at stake.

JAMES BUCHANAN.

WASHINGTON, *March 3*, 1859.

SPECIAL MESSAGE OF THE PRESIDENT.

Veto of a bill for the relief of Hockaday & Leggit.—As a precedent it will in effect annul all restrictions contained in the mail contracts, enabling the Postmaster-General to reduce or curtail postal service according to the public needs.

To the House of Representatives of the United States :

I return, with my objections, to the house in which it originated, the bill entitled “ An act for the relief of Hockaday & Leggit,” presented to me on the 15th instant.

This bill appropriates \$59,576 “ to Hockaday & Leggit, in full payment for damages sustained by them in reduction of pay for carrying the mails on route No. 8911, and that said amount be paid to William Leggit for and on account of Hockaday & Leggit, and for their benefit.”

A bill containing the same language, with the single exception that the sum appropriated therein was \$40,000 instead of \$59,576, passed both houses of Congress at their last session ; but it was presented to me at so late a period of the session that I could not examine its merits before the time fixed for the adjournment, and it therefore, under the Constitution, failed to become a law. The increase of the sum appropriated, in the present bill, over that in the bill of the last session, being within a fraction of twenty thousand dollars, has induced me to examine the question with some attention ; and I find that the bill involves an important principle which, if established by Congress, may take large sums out of the Treasury.

It appears that, on the 1st day of April, 1858, John M. Hockaday entered into a contract with the Postmaster General for transporting the mail on route No. 8911, from Saint Joseph, Missouri, by Fort Kearney, Nebraska Territory, and Fort Leavenworth, to Salt Lake City, for the sum of \$190,000

per annum for a weekly service. The service was to commence on the 1st day of May, 1858, and to terminate on the 30th November, 1860. By this contract the Postmaster-General reserved to himself the right "to reduce the service to semi-monthly whenever the necessities of the public and the condition of affairs in the Territory of Utah may not require it more frequently." And again, "that the Postmaster-General may discontinue or curtail the service, in whole or in part, in order to place on the route a greater degree of service, or whenever the public interests require such discontinuance for any other cause, he allowing one month's extra pay on the amount of service dispensed with."

On the 11th April, 1859, the Postmaster-General curtailed the service, which he had a clear right to do under the contract, to semi-monthly, with an annual deduction of \$65,000, leaving the compensation \$125,000 for twenty-four trips per year, instead of \$190,000 for fifty-two trips. This curtailment was not to take effect till the 1st of July, 1859.

At the time the contract was made, it was expected that the Army in Utah might be engaged in active operations; and hence the necessity of frequent communications between the War Department and that Territory. The reservation of the power to curtail the service to semi-monthly trips itself proves that the parties had in view the contingency of such curtailment. "whenever the necessities of the public and the condition of affairs in the Territory of Utah may not require it more frequently."

Before the Postmaster-General ordered this curtailment, he had an interview with the Secretary of War upon the subject, in the course of which the Secretary agreed that a weekly mail to Saint Joseph and Salt Lake City was no longer needed for the purposes of the Government. This, evidently, because the trouble in Utah had ended.

Mr. Hockaday faithfully complied with his contract, and the full compensation was paid, at the rate of \$190,000 per annum, up to the 1st July, 1859, and "one month's extra pay on the amount of service dispensed with," according to the contract.

Previous to that date, as has been already stated, on the

14th of April, 1859, the Postmaster-General curtailed the service to twice per month ; and on the 11th May, 1859, Messrs. Hockaday & Co. assigned the contract to Jones, Russell & Co. for a bonus of \$50,000. Their property connected with the route was to be appraised, which was effected, and they received on this account about ninety-four thousand dollars—making the whole amount about one hundred and forty-four thousand dollars.

There is no doubt that the contractors have sustained considerable loss in the whole transaction. The amount I shall not pretend to decide, whether \$40,000 or \$59,576, or any other sum.

It will be for Congress to consider whether the precedent established by this bill will not, in effect, annul all restrictions contained in the mail contracts enabling the Postmaster-General to reduce or curtail the postal service according to the public exigencies as they may arise. I have no other solicitude upon the subject. I am informed that there are many cases in the Post-Office Department depending upon the same principle.

JAMES BUCHANAN.

January 25, 1860.

SPECIAL MESSAGE—THE SAINT CLAIR FLATS BILL.

To require the President to approve a bill, when it is presented to him on the last day of the Session, and it is impossible for him to examine into its merits, would be to deprive him of his Constitutional discretion, and convert him into a mere registrar of the decrees of Congress.—The object of this bill, appropriating \$55,000, had been already substantially accomplished before its passage by former appropriations.—No present necessity for increasing the depth of this channel.—The Constitutional question.—The power granted “to regulate commerce, etc.,” does not embrace the power to create or construct.—Views of Chief-Justice Marshall and President Madison stated.—A proposal in the Constitutional Convention to give Congress power “to provide for the cutting of canals when deemed necessary,” rejected by the strong majority of eight States to three.—Dangers of latitudinarian construction of the carefully limited powers of the General Government.—The corrupting and seducing money influence exerted by the Federal Government in carrying on internal improvements, and its danger to the States.—Inequity which such grants must work among the States resulting in strife, jealousy, and dissensions.—For more than thirty years after the adoption of the Constitution the power to appropriate money for internal improvements neither claimed nor exercised by Congress.—Veto of General Jackson.—Vast field for corruption in Congressional “log-rolling.”—The States may impose a tonnage tax for improvement of rivers and harbors by consent of Congress.—Precedents, and this a clear Constitutional method.—Light-houses considered.—Congress may undoubtedly make improvements necessary for defence against invasion by a foreign enemy.

To the Senate of the United States :

On the last day of the last Congress, a bill, which had passed both houses, entitled “An act making an appropriation for deepening the channel over the Saint Clair flats, in the State of Michigan,” was presented to me for approval.

It is scarcely necessary to observe, that during the closing hours of a session it is impossible for the President, on the instant, to examine into the merits or demerits of an important bill, involving, as this does, grave questions, both of ex-

pediency and of constitutional power, with that care and deliberation demanded by his public duty, as well as by the best interests of the country. For this reason the Constitution has, in all cases, allowed him ten days for deliberation ; because, if a bill be presented to him within the last ten days of the session, he is not required to return it, either with an approval or a veto, but may retain it, " in which case it shall not be a law." Whilst an occasion can rarely occur when so long a period as ten days would be required to enable the President to decide whether he should approve or veto a bill, yet, to deny him even two days on important questions before the adjournment of each session for this purpose, as recommended by a former annual message, would not only be unjust to him, but a violation of the spirit of the Constitution. To require him to approve a bill when it is impossible he could examine into its merits, would be to deprive him of the exercise of his constitutional discretion, and convert him into a mere registrar of the decrees of Congress. I therefore deem it a sufficient reason for having retained the bill in question that it was not presented to me until the last day of the session.

Since the termination of the last Congress, I have made a thorough examination of the questions involved in the bill to deepen the channel over the Saint Clair flats, and now proceed to express the opinions which I have formed upon the subject :

And 1. Even if this had been a mere question of expediency, it was, to say the least, extremely doubtful whether the bill ought to have been approved ; because the object which Congress intended to accomplish by the appropriation which it contains of \$55,000 had been already substantially accomplished. I do not mean to allege that the work had been completed in the best manner, but it was sufficient for all practical purposes.

The Saint Clair flats are formed by the Saint Clair River, which empties into the lake of that name by several mouths, and which forms a bar or shoal on which, in its natural state, there is not more than six or seven feet of water. This shoal is interposed between the mouth of the river and the deep

water of the lake, a distance of six thousand feet, and in its natural condition was a serious obstruction to navigation. The obvious remedy for this was to deepen a channel through these flats by dredging, so as to enable vessels which could navigate the lake and the river to pass through this intermediate channel. This object had been already accomplished by previous appropriations, but without my knowledge, when the bill was presented to me. Captain Whipple, of the Topographical Engineers, to whom the expenditure of the last appropriation of \$45,000 for this purpose in 1856 was intrusted, in his annual report, of the 1st October, 1858, stated that the dredging was discontinued on the 26th August, 1858, when a channel had been cut averaging two hundred and seventy-five feet wide, with a depth varying from twelve to fifteen and a half feet. He says, "so long as the lake retains its present height we may assume that the depth in the channel will be at least thirteen and a half feet." With this result, highly creditable to Captain Whipple, he observes, that if he has been correctly informed, "all the lake navigators are gratified." Besides, afterwards, and during the autumn of 1858, the Canadian Government expended \$20,000 in deepening and widening the inner end of the channel excavated by the United States. No complaint had been made, previous to the passage of the bill, of obstructions to the commerce and navigation across the Saint Clair flats. What, then, was the object of the appropriation proposed by the bill?

It appears that the surface of the water in Lake Saint Clair has been gradually rising, until, in 1858, it had attained an elevation of four feet above what had been its level in 1841. It is inferred, whether correctly or not it is not for me to say, that the surface of the water may gradually sink to the level of 1841; and, in that event, the water which was, when the bill passed, thirteen and a half feet deep in the channel, might sink to nine and a half feet, and thus obstruct the passage.

To provide for this contingency, Captain Whipple suggested "the propriety of placing the subject before Congress, with an estimate for excavating a cut, through the centre of the new channel, one hundred and fifty feet in width and four and a half feet deep, so as to obtain from the river to the lake

a depth of eighteen feet during seasons of extreme high water, and twelve feet at periods of extreme low water. It was not alleged that any present necessity existed for this narrower cut in the bottom of the present channel, but it is inferred that for the reason stated it may hereafter become necessary. Captain Whipple's estimate amounted to \$50,000, but Congress, by the bill, have granted \$55,000. Now, if no other objection existed against this measure, it would not seem necessary that the appropriation should have been made for the purpose indicated. The channel was sufficiently deep for all practical purposes; but from natural causes constantly operating in the lake, which I need not explain, this channel is peculiarly liable to fill up. What is really required is, that it should at intervals be dredged out so as to preserve its present depth; and surely the comparatively trifling expense necessary for this purpose ought not to be borne by the United States. After an improvement has been once constructed by appropriations from the Treasury it is not too much to expect that it should be kept in repair by that portion of the commercial and navigating interests which enjoys its peculiar benefits.

The last report made by Captain Whipple, dated on the 13th September last, has been submitted to Congress by the Secretary of War, and to this I would refer for information, which is, upon the whole, favorable in relation to the present condition of the channel through the Saint Clair flats.

2. But the far more important question is, does Congress possess the power under the Constitution to deepen the channels of rivers and to create and improve harbors for purposes of commerce?

The question of the constitutional power of Congress to construct internal improvements within the States has been so frequently and so elaborately discussed that it would seem useless on this occasion to repeat or to refute at length arguments which have been so often advanced. For my own opinions on this subject I might refer to President Polk's carefully considered message of the 15th December, 1847, addressed to the House of Representatives whilst I was a member of his Cabinet.

The power to pass the bill in question, if it exist at all, must be derived from the power "to regulate commerce with foreign nations and among the several States and with the Indian tribes."

The power "to regulate." Does this ever embrace the power to create or to construct? To say that it does is to confound the meaning of words of well-known signification. The word "regulate" has several shades of meaning, according to its application to different subjects, but never does it approach the signification of creative power. The regulating power necessarily presupposes the existence of something to be regulated. As applied to commerce, it signifies, according to the lexicographers, "to subject to rules or restrictions, as to regulate trade," &c. The Constitution itself is its own best expounder of the meaning of words employed by its framers. Thus, Congress have the power "to coin money." This is the creative power. Then immediately follows the power "to regulate the value thereof"—that is, of the coined money thus brought into existence. The words "regulate," "regulation," and "regulations" occur several times in the Constitution, but always with this subordinate meaning. Thus, after the creative power "to raise and support armies" and "to provide and maintain the navy" had been conferred upon Congress, then follows the power "to make rules for the government and regulation of the land and naval forces" thus called into being. So the Constitution, acting upon the self-evident fact that "commerce with foreign nations and among the several States and with the Indian tribes" already existed, conferred upon Congress the power "to regulate" this commerce. Thus, according to Chief Justice Marshall, the power to regulate commerce "is the power to prescribe the rule by which commerce is to be governed." And Mr. Madison, in his veto message of the 3d March, 1817, declares that "the power to regulate commerce among the several States cannot include a power to construct roads and canals, and to improve the navigation of water-courses, in order to facilitate, promote, and secure such commerce without a latitude of construction departing from the ordinary import of the terms, strengthened by the known inconvenience which

doubtless led to the grant of this remedial power of Congress." We know from the history of the Constitution what these inconveniences were. Different States admitted foreign imports at different rates of duty. Those which had prescribed a higher rate of duty for the purpose of increasing their revenue were defeated in this object by the legislation of neighboring States admitting the same foreign articles at lower rates. Hence, jealousies and dangerous rivalries had sprung up between the different States. It was chiefly in the desire to provide a remedy for these evils that the Federal Convention originated. The Constitution, for this purpose, conferred upon Congress the power to regulate commerce in such a manner that duties should be uniform in all the States composing the Confederacy ; and, moreover, expressly provided that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." If the construction of a harbor or deepening the channel of a river be a regulation of commerce, as the advocates of this power contend, this would give the ports of the State within which these improvements were made a preference over the ports of other States, and thus be a violation of the Constitution.

It is not too much to assert that no human being in existence, when the Constitution was framed, entertained the idea or the apprehension that, by conferring upon Congress the power to regulate commerce, its framers intended to embrace the power of constructing roads and canals, and of creating and improving harbors, and deepening the channels of rivers throughout our extensive Confederacy. Indeed, one important branch of this very power had been denied to Congress in express terms by the Convention. A proposition was made in the Convention to confer on Congress the power "to provide for the cutting of canals when deemed necessary." This was rejected by the strong majority of eight States to three. Among the reasons given for this rejection was, that "the expense in such cases will fall on the United States, and the benefits accrue to the places where the canals may be cut."

To say that the simple power of regulating commerce embraces within itself that of constructing harbors, of deepening

the channels of rivers, in short, of creating a system of internal improvements for the purpose of facilitating the operations of commerce, would be to adopt a latitude of construction under which all political power might be usurped by the Federal Government. Such a construction would be in conflict with the well-known jealousy against Federal power which actuated the framers of the Constitution. It is certain that the power in question is not enumerated among the express grants to Congress contained in the instrument. In construing the Constitution, we must then next inquire, is its exercise "necessary and proper?"—not whether it may be convenient or useful "for carrying into execution" the power to regulate commerce among the States. But the jealous patriots of that day were not content even with this strict rule of construction. Apprehending that a dangerous latitude of interpretation might be applied in future times to the enumerated grants of power, they procured an amendment to be made to the original instrument, which declares that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The distinctive spirit and character which pervades the Constitution is, that the powers of the General Government are confined chiefly to our intercourse with foreign nations, to questions of peace and war, and to subjects of common interest to all the States, carefully leaving the internal and domestic concerns of each individual State to be controlled by its own people and legislature. Without specifically enumerating these powers, it must be admitted that this well-marked distinction runs through the whole instrument. In nothing does the wisdom of its framers appear more conspicuously than in the care with which they sought to avoid the danger to our institutions which must necessarily result from the interference of the Federal Government with the local concerns of the States. The jarring and collision which would occur from the exercise by two separate governments of jurisdiction over the same subjects could not fail to produce disastrous consequences. Besides, the corrupting and seducing money influence exerted by the General Government in carrying into

effect a system of internal improvements might be perverted to increase and consolidate its own power to the detriment of the rights of the States.

If the power existed in Congress to pass the present bill, then taxes must be imposed, and money borrowed to an unlimited extent to carry such a system into execution. Equality among the States is equity. This equality is the very essence of the Constitution. No preference can justly be given to one of the sovereign States over another. According to the best estimate, our immense coast on the Atlantic, the Gulf of Mexico, the Pacific, and the lakes, embraces more than 9,500 miles, and, measuring by its indentations and to the head of tide-water on the rivers, the distance is believed to be more than 33,000 miles. This, everywhere throughout its vast extent, contains numerous rivers and harbors ; all of which may become the objects of congressional appropriation. You cannot deny to one State what you have granted to another. Such injustice would produce strife, jealousy, and alarming dissensions among them. Even within the same State improvements may be made in one river or harbor which would essentially injure the commerce and industry of another river or harbor. The truth is that most of these improvements are in a great degree local in their character, and for the especial benefit of corporations or individuals in their vicinity, though they may have an odor of nationality, on the principle that whatever benefits any part indirectly benefits the whole.

From our past history, we may have a small foretaste of the cost of reviving the system of internal improvements.

For more than thirty years after the adoption of the Federal Constitution the power to appropriate money for the construction of internal improvements was neither claimed nor exercised by Congress. After its commencements, in 1820 and 1821, by very small and modest appropriations for surveys, it advanced with such rapid strides that, within the brief period of ten years, according to President Polk, " the sum asked for from the Treasury, for various projects, amounted to more than \$200,000,000." The vetoes of General Jackson and several of his successors have impeded the

progress of the system and limited its extent, but have not altogether destroyed it. The time has now arrived for a final decision of the question. If the power exists, a general system should be adopted which would make some approach to justice among all the States, if this be possible.

What a vast field would the exercise of this power open for jobbing and corruption! Members of Congress, from an honest desire to promote the interests of their constituents, would struggle for improvements within their own districts, and the body itself must necessarily be converted into an arena where each would endeavor to obtain from the Treasury as much money as possible for his own locality. The temptation would prove irresistible. A system of "*log-rolling*" (I know no word so expressive) would be inaugurated, under which the Treasury would be exhausted, and the Federal Government be deprived of the means necessary to execute those great powers clearly confided to it by the Constitution for the purpose of promoting the interests and vindicating the honor of the country.

Whilst the power over internal improvements, it is believed, was "reserved to the States, respectively," the framers of the Constitution were not unmindful that it might be proper for the State legislatures to possess the power to impose tonnage duties for the improvement of rivers and harbors within their limits. The self-interest of the different localities would prevent this from being done to such an extent as to injure their trade. The Constitution, therefore, which had, in a previous clause, provided that all duties should be uniform throughout the United States, subsequently modified the general rule so far as to declare that "no State shall, without the consent of Congress, levy any duty of tonnage." The inference is, therefore, irresistible that, with the consent of Congress, such a duty may be imposed by the States. Thus, those directly interested in the improvement may lay a tonnage duty for its construction, without imposing a tax for this purpose upon all the people of the United States.

To this provision several of the States resorted until the period when they began to look to the Federal Treasury instead of depending upon their own exertions. Massachusetts,

Rhode Island, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, and Georgia, with the consent of Congress, imposed small tonnage duties on vessels, at different periods, for clearing and deepening the channels of rivers and improving harbors where such vessels entered. The last of these legislative acts believed to exist is that of Virginia, passed on the 22d February, 1826, levying a tonnage duty on vessels for "improving the navigation of James River from Warwick to Rockett's Landing." The latest act of Congress on this subject was passed on the 24th of February, 1843, giving its consent to the law of the legislature of Maryland laying a tonnage duty on vessels for the improvement of the harbor of Baltimore, and continuing it in force until 1st June, 1850.

Thus a clear constitutional mode exists by which the legislature of Michigan may, in its discretion, raise money to preserve the channel of the Saint Clair River at its present depth, or to render it deeper. A very insignificant tonnage duty on American vessels using this channel would be sufficient for the purpose. And as the Saint Clair River is the boundary line between the United States and the province of Upper Canada, the provincial British authorities would doubtless be willing to impose a similar tonnage duty on British vessels to aid in the accomplishment of this object. Indeed, the legislature of that province have already evinced their interest on this subject by having but recently expended \$20,000 on the improvement of the Saint Clair flats. Even if the Constitution of the United States had conferred upon Congress the power of deepening the channel of the Saint Clair River, it would be unjust to impose upon the people of the United States the entire burden, which ought to be borne jointly by the two parties having an equal interest in the work. Whenever the State of Michigan shall cease to depend on the Treasury of the United States, I doubt not that she, in conjunction with Upper Canada, will provide the necessary means for keeping this work in repair in the least expensive and most effective manner, and without being burdensome to any interest.

It has been contended, in favor of the existence of the

power to construct internal improvements, that Congress have, from the beginning, made appropriations for light-houses, and that, upon the same principle of construction, they possess the power of improving harbors and deepening the channels of rivers. As an original question, the authority to erect light-houses under the commercial power might be considered doubtful ; but even were it more doubtful than it is, I should regard it as settled after an uninterrupted exercise of the power for seventy years. Such a long and uniform practical construction of the Constitution is entitled to the highest respect, and has finally determined the question.

Among the first acts which passed Congress after the Federal Government went into effect, was that of August 7, 1789, providing " for the establishment and support of light-houses, beacons, buoys, and public piers." Under this act, the expenses for the maintenance of all such erections then in existence were to be paid by the Federal Government ; and provision was made for the cession of jurisdiction over them by the respective States to the United States. In every case since, before a light-house could be built, a previous cession of jurisdiction has been required. This practice doubtless originated from that clause of the Constitution authorizing Congress " to exercise exclusive legislation" * * * " over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other *needful buildings*." Among these "*needful buildings*," light-houses must in fact have been included.

The bare statement of these facts is sufficient to prove that no analogy exists between the power to erect a light-house as a " needful building" and that to deepen the channel of a river.

In what I have said I do not mean to intimate a doubt of the power of Congress to construct such internal improvements as may be essentially necessary for defence and protection against the invasion of a foreign enemy. The power to declare war and the obligation to protect each State against invasion clearly cover such cases. It will scarcely be claimed, however, that the improvement of the Saint Clair River is

within this category. This river is the boundary line between the United States and the British province of Upper Canada. Any improvement of its navigation, therefore, which we could make for purposes of war would equally inure to the benefit of Great Britain, the only enemy which could possibly confront us in that quarter. War would be a sad calamity for both nations ; but should it ever unhappily exist, the battles will not be fought on the Saint Clair River or on the lakes with which it communicates.

JAMES BUCHANAN.

February 1, 1860.

SPECIAL MESSAGE ON THE IMPROVEMENT OF THE MISSISSIPPI RIVER.

To the Senate of the United States :

On the last day of the last session of Congress, a resolution, which had passed both houses, "in relation to removal of obstructions to navigation in the mouth of the Mississippi River," was presented to me for approval. I have retained this resolution, because it was presented to me at a period when it was impossible to give the subject that examination to which it appeared to be entitled. I need not repeat the views on this point presented in the introductory portion of my message to the Senate of the 2d instant.

In addition, I would merely observe that, although at different periods, sums, amounting in the aggregate to six hundred and ninety thousand dollars, have been appropriated by Congress for the purpose of removing the bar and obstructions at the mouth of the Mississippi, yet it is now acknowledged that this money has been expended with but little, if any, practical benefit to its navigation.

JAMES BUCHANAN.

February 6, 1860.

SPECIAL MESSAGE.

THE PRESIDENT'S SOLEMN PROTEST AGAINST THE ATTACK UPON THE INDEPENDENCE OF THE EXECUTIVE AS A CO-OR- DINATE BRANCH OF THE FEDERAL GOVERNMENT BY THE HOUSE OF REPRESENTATIVES, IN THE SO-CALLED "COVODE" INVESTIGATION RESOLUTIONS.

The House of Representatives possess no power under the Constitution over the accusatory portion of the resolution, except as an impeaching body.—Over the remedial clauses their authority as a legislative body is admitted.—Except as an impeaching body, the House of Representatives has no power, or jurisdiction, or supremacy whatever over the President.—As a co-ordinate branch of the Government he is their equal, and independent of them.—He will defend his rights and prerogatives against any unconstitutional attack.—Trial of an impeachment, and the precautions thrown around it by the Constitution.—The precedent established in Judge Peck's case will stand the test of time.—Methods and procedure in that case.—John Covode, the accuser, made one of the judges under this resolution of the House, in violation of precedent and the principles of universal justice.—A revolting spectacle.—The charge to be so investigated, as vague and general as the English language permits.—Since the Star Chamber and general warrants, no such proceeding permitted in England.—The humblest citizen, under the Constitution, has a right to be informed in the beginning, of the nature of the accusation, to enable him to prepare his defence.—Is the President alone to be deprived of this right?—Danger of the aggrandizement of the legislative branch at the expense of the executive and judicial.—This protest made by the President for no reasons personal to himself.—Nothing but the basest perjury can sully his good name.—Formal protest.

To the House of Representatives of the United States :

After a day which has afforded me ample time for reflection, and after much and careful deliberation, I find myself constrained by an imperious sense of duty, as a co-ordinate branch of the Federal Government, to protest against the first two clauses of the first resolution adopted by the House of Representatives on the 5th instant, and published in the Con-

gressional Globe on the succeeding day. These clauses are in the following words : "*Resolved*, That a committee of five members be appointed by the Speaker, for the purpose, 1st, of investigating whether the President of the United States, or any other officer of the Government, has, by money, patronage, or other improper means, sought to influence the action of Congress, or any committee thereof, for or against the passage of any law appertaining to the rights of any State or Territory ; and 2d, 'also to inquire into and investigate whether any officer or officers of the Government have, by combination or otherwise, prevented or defeated, or attempted to prevent or defeat, the execution of any law or laws now upon the statute-book ; and whether the President has failed or refused to compel the execution of any law thereof.' "

I confine myself exclusively to these two branches of the resolution, because the portions of it which follow relate to alleged abuses in post-offices, navy-yards, public buildings, and other public works of the United States. In such cases inquiries are highly proper in themselves, and belong equally to the Senate and the House as incident to their legislative duties, and being necessary to enable them to discover and to provide the appropriate legislative remedies for any abuses which may be ascertained. Although the terms of the latter portion of the resolution are extremely vague and general, yet my sole purpose in adverting to them at present is to mark the broad line of distinction between the accusatory and the remedial clauses of this resolution. The House of Representatives possess no power under the Constitution over the first or accusatory portion of the resolution, except as an impeaching body ; whilst over the last, in common with the Senate, their authority as a legislative body is fully and cheerfully admitted.

It is solely in reference to the first or impeaching power that I propose to make a few observations. Except in this single case, the Constitution has invested the House of Representatives with no power, no jurisdiction, no supremacy whatever over the President. In all other respects he is quite as independent of them as they are of him. As a co-ordinate branch of the Government he is their equal. Indeed, he is

the only direct representative on earth of the people of all and each of the sovereign States. To them, and to them alone, is he responsible whilst acting within the sphere of his constitutional duty, and not in any manner to the House of Representatives. The people have thought proper to invest him with the most honorable, responsible, and dignified office in the world ; and the individual, however unworthy, now holding this exalted position, will take care, so far as in him lies, that their rights and prerogatives shall never be violated in his person, but shall pass to his successors unimpaired by the adoption of a dangerous precedent. He will defend them to the last extremity against any unconstitutional attempt, come from what quarter it may, to abridge the constitutional rights of the Executive, and render him subservient to any human power except themselves.

The people have not confined the President to the exercise of executive duties. They have also conferred upon him a large measure of legislative discretion. No bill can become a law without his approval, as representing the people of the United States, unless it shall pass after his veto by a majority of two-thirds of both Houses. In his legislative capacity, he might, in common with the Senate and the House, institute an inquiry to ascertain any facts which ought to influence his judgment in approving or vetoing any bill.

This participation in the performance of legislative duties between the co-ordinate branches of the Government ought to inspire the conduct of all of them, in their relations towards each other, with mutual forbearance and respect. At least each has a right to demand justice from the other. The cause of complaint is, that the constitutional rights and immunities of the Executive have been violated in the person of the President.

The trial of an impeachment of the President before the Senate on charges preferred and prosecuted against him by the House of Representatives would be an imposing spectacle for the world. In the result, not only his removal from the presidential office would be involved, but, what is of infinitely greater importance to himself, his character, both in the eyes of the present and of future generations, might possibly be

tarnished. The disgrace cast upon him would in some degree be reflected upon the character of the American people who elected him. Hence the precautions adopted by the Constitution to secure a fair trial. On such a trial it declares that "the Chief Justice shall preside." This was doubtless because the framers of the Constitution believed it to be possible that the Vice-President might be biased by the fact that, "in case of the removal of the President from office," "the same shall devolve on the Vice-President."

The preliminary proceedings in the House in the case of charges which may involve impeachment have been well and wisely settled by long practice upon principles of equal justice both to the accused and to the people. The precedent established in the case of Judge Peck, of Missouri, in 1831, after a careful review of all former precedents, will, I venture to predict, stand the test of time.

In that case, Luke Edward Lawless, the accuser, presented a petition to the House, in which he set forth minutely and specifically his causes of complaint. He prayed "that the conduct and proceeding in this behalf of said Judge Peck may be inquired into by your honorable body, and such decision made thereon as to your wisdom and justice shall seem proper." This petition was referred to the Judiciary Committee; such has ever been deemed the appropriate committee to make similar investigations. It is a standing committee supposed to be appointed without reference to any special case, and at all times is presumed to be composed of the most eminent lawyers in the House from different portions of the Union, whose acquaintance with judicial proceedings and whose habits of investigation qualify them peculiarly for the task. No tribunal, from their position and character, could in the nature of things be more impartial. In the case of Judge Peck the witnesses were selected by the committee itself, with a view to ascertain the truth of the charge. They were cross-examined by him, and everything was conducted in such manner as to afford him no reasonable cause of complaint. In view of this precedent, and, what is of far greater importance, in view of the Constitution and the principles of eternal justice, in what manner has the President of the United States

been treated by the House of Representatives ? Mr. John Covode, a Representative from Pennsylvania, is the accuser of the President. Instead of following the wise precedents of former times, and especially that in the case of Judge Peck, and referring the accusation to the Committee on the Judiciary, the House have made my accuser one of my judges.

To make the accuser the judge is a violation of the principles of universal justice, and is condemned by the practice of all civilized nations. Every freeman must revolt at such a spectacle. I am to appear before Mr. Covode, either personally or by a substitute, to cross-examine the witnesses which he may produce before himself to sustain his own accusations against me ; and perhaps even this poor boon may be denied to the President.

And what is the nature of the investigation which his resolution proposes to institute ? It is as vague and general as the English language affords words in which to make it. The committee is to inquire, not into any specific charge or charges, but whether the President has, by " money, patronage, or other improper means, sought to influence," not the action of any individual member or members of Congress, but " the action" of the entire body " of Congress" itself, " or any committee thereof." The President might have had some glimmering of the nature of the offence to be investigated, had his accuser pointed to the act or acts of Congress which he sought to pass or to defeat by the employment of " money, patronage, or other improper means." But the accusation is bounded by no such limits. It extends to the whole circle of legislation ; to interference " for or against the passage of any law appertaining to the rights of any State or Territory." And what law does not appertain to the rights of some State or Territory ? And what law or laws has the President failed to execute ? These might easily have been pointed out had any such existed.

Had Mr. Lawless asked an inquiry to be made by the House, whether Judge Peck, in general terms, had not violated his judicial duties, without the specification of any particular act, I do not believe there would have been a single vote in that body in favor of the inquiry.

Since the time of the Star Chamber and of general warrants there has been no such proceeding in England.

The House of Representatives, the high impeaching power of the country, without consenting to hear a word of explanation, have indorsed this accusation against the President, and made it their own act. They even refused to permit a member to inquire of the President's accuser what were the specific charges against him. Thus, in this preliminary accusation of "high crimes and misdemeanors" against a co-ordinate branch of the Government, under the impeaching power, the House refused to hear a single suggestion even in regard to the correct mode of proceeding, but, without a moment's delay, passed the accusatory resolutions under the pressure of the previous question.

In the institution of a prosecution for any offence against the most humble citizen—and I claim for myself no greater rights than he enjoys—the Constitution of the United States, and of the several States, require that he shall be informed in the very beginning of the nature and cause of the accusation against him, in order to enable him to prepare for his defence. There are other principles which I might enumerate, not less sacred, presenting an impenetrable shield to protect every citizen falsely charged with a criminal offence. These have been violated in the prosecution instituted by the House of Representatives against the executive branch of the Government. Shall the President alone be deprived of the protection of these great principles which prevail in every land where a ray of liberty penetrates the gloom of despotism? Shall the Executive alone be deprived of rights which all his fellow-citizens enjoy? The whole proceeding against him justifies the fears of those wise and great men who, before the Constitution was adopted by the States, apprehended that the tendency of the Government was to the aggrandizement of the legislative at the expense of the executive and judicial departments.

I again declare emphatically that I make this protest for no reason personal to myself, and I do it with perfect respect for the House of Representatives, in which I had the honor of serving as a member for five successive terms. I have lived

long in this goodly land, and have enjoyed all the offices and honors which my country could bestow. Amid all the political storms through which I have passed, the present is the first attempt which has ever been made, to my knowledge, to assail my personal or official integrity ; and this as the time is approaching when I shall voluntarily retire from the service of my country. I feel proudly conscious that there is no public act of my life which will not bear the strictest scrutiny. I defy all investigation. Nothing but the basest perjury can sully my good name. I do not fear even this, because I cherish an humble confidence that the Gracious Being who has hitherto defended and protected me against the shafts of falsehood and malice will not desert me now, when I have become "old and gray-headed." I can declare before God and my country that no human being (with an exception scarcely worthy of notice) has, at any period of my life, dared to approach me with a corrupt or dishonorable proposition ; and, until recent developments, it had never entered into my imagination that any person, even in the storm of exasperated political excitement, would charge me, in the most remote degree, with having made such a proposition to any human being. I may now, however, exclaim in the language of complaint employed by my first and greatest predecessor, that I have been abused "in such exaggerated and indecent terms as could scarcely be applied to a Nero, to a notorious defaulter, or even to a common pickpocket."

I do, therefore, for the reasons stated, and in the name of the people of the several States, solemnly protest against these proceedings of the House of Representatives, because they are in violation of the rights of the co-ordinate executive branch of the Government, and subversive of its constitutional independence ; because they are calculated to foster a band of interested parasites and informers, ever ready, for their own advantage, to swear before *ex parte* committees to pretended private conversations between the President and themselves, incapable from their nature of being disproved, thus furnishing material for harassing him, degrading him in the eyes of the country, and eventually, should he be a weak or a timid man, rendering him subservient to improper influ-

ences, in order to avoid such persecutions and annoyances, because they tend to destroy that harmonious action for the common good which ought to be maintained, and which I sincerely desire to cherish between co-ordinate branches of the Government ; and, finally, because, if unresisted, they would establish a precedent dangerous and embarrassing to all my successors, to whatever political party they might be attached.

JAMES BUCHANAN.

March 28, 1860.

SPECIAL MESSAGE.

Veto of bill for the relief of Arthur Edwards and his associates.—This bill grants them more by \$55,000 than the parties themselves demanded from the Postmaster-General, and more than \$30,000 in excess of their demand before the Court of Claims.

To the Senate of the United States :

I return, with my objections, to the Senate, for their reconsideration, the bill entitled “An act for the relief of Arthur Edwards and his associates,” presented to me on the 10th instant.

This bill directs the Postmaster-General “to audit and settle the accounts of Arthur Edwards and his associates, for transporting the United States through mail on their steamers during the years 1849 and 1853 and intervening years,” between Cleveland and Detroit, between Sandusky and Detroit, and between Toledo and Detroit, and “to allow and pay them not less than \$28.60 for each and every passage of said steamers between said places during the aforementioned time, when the mails were on board.”

I have caused a statement to be made at the Post-Office Department of the least sum which can be paid to Mr. Edwards and his associates under the bill should it become a law, and from this it appears the amount will be \$80,450.23.

Mr. Edwards and his associates, in 1854, a short time after the alleged services had been rendered, presented a claim to the Postmaster-General for \$25,180 as compensation for these services. This claim consists of nine items, setting forth specifically all the services embraced by the present bill. It is fair to presume that the parties best knew the value of their own service, and that they would not, by an under-estimate, do themselves injustice. The whole claim of \$25,180 was rejected by the Postmaster-General, for reasons which it is no part of my present purpose to discuss.

The claimants next presented a petition to the Court of Claims in June, 1855, "for a reasonable compensation" for these services, and "pray the judgment of your honorable court for the actual value of the service rendered by them, and received by the United States, which amounts to the sum of \$50,000." Thus, the estimate which they placed upon their services had nearly doubled between 1854 and 1855; had risen from \$25,180 to \$50,000. On the ——, after a full hearing, the court decided against the claim, and delivered an opinion in support of this decision which cannot, I think, be contested on legal principles. But they state, in conclusion of the opinion, that "for any compensation for their services beyond what they have received, they must depend upon the discretion of Congress."

This decision of the Court of Claims was reported to Congress on the 1st of April, 1858, and from it the present bill has originated. The amount granted by it is more by upwards of \$55,000 than the parties themselves demanded from the Postmaster-General in 1854, and is more, by upwards of \$30,000, than they demanded when before the Court of Claims. The enormous difference in their favor between their own original demand and the amount granted by the present bill constitutes my chief objection to it. In presenting this objection, I do not propose to enter into the question whether the claimants are entitled in equity to any compensation for their services beyond that which it is alleged they have already received; or, if so, what would be "a reasonable and fair compensation." My sole purpose is to afford Congress an opportunity of reconsidering this case on account of its peculiar circumstances. I transmit to the Senate the reports of Horatio King, Acting Postmaster-General, and of A. N. Zevely, Third Assistant Postmaster-General, both dated on the 14th of April, 1860, on the subject of this claim.

JAMES BUCHANAN.

April 17, 1860.

SPECIAL MESSAGE—AFRICANS CAPTURED ON BOARD OF SLAVERS.

Five hundred and seven Africans captured by the United States Steamer Mohawk on the Slaver Wildfire, and taken to Key West.—What disposition shall be made of them?—The President refers to his Annual Message of 6th December, 1858, on this subject.—He can appoint an agent upon the coast of Africa to receive such captives, but no express provision has been made for their protection and support.—Believing, with President Monroe, that Congress intended in its legislation that these unfortunates should be cared for in Africa until they should be able to provide for themselves, the President contracted with the Colonization Society to receive the Africans, to care for those captured on the Slaver Echo for one year for \$150 each, to shelter, clothe, feed, and instruct them.—The like expense for the captives on the Wildfire will be large, but is inevitable without a violation of the laws of humanity.—Congress should provide specific legislation to guide the Executive on this whole subject.—The President suggests authority to make a general agreement with the Colonization Society to receive and maintain captives for a limited time, and to receive them directly from the capturing war vessel.—Key West an unsuitable place for detaining them.—Statement of cost of keeping them there.—The Spanish islands of Cuba and Porto Rico, by tolerating and encouraging the slave trade, the cause of all this waste of blood and treasure to the United States and Great Britain.

To the Senate and House of Representatives :

On the 26th day of April last, Lientenant Craven, of the U. S. steamer Mohawk, captured the slaver Wildfire on the coast of Cuba, with five hundred and seven African negroes on board. The prize was brought into Key West on the 30th April, and the negroes were delivered into the custody of Fernando J. Moreno, Marshal of the southern district of Florida. The question which now demands immediate decision is, What disposition shall be made of these Africans? In the annual message to Congress of December 6, 1858, I expressed my opinion in regard to the construction of the act of 3d March, 1819, “in addition to the acts prohibiting the slave

trade," so far as the same is applicable to the present case. From this I make the following extract :

" Under the second section of this act, the President is authorized to make such regulations and arrangements as he may deem expedient for the safe-keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of color captured by vessels of the United States, as may be delivered to the marshal of the district into which they are brought ; and to appoint a person or persons residing upon the coast of Africa, as agent or agents for receiving the negroes, mulattoes, or persons of color, delivered from on board vessels seized in the prosecution of the slave trade by commanders of the United States armed vessels.

" A doubt immediately arose as to the true construction of this act. It is quite clear from its terms that the President was authorized to provide ' for the safe-keeping, support, and removal ' of these negroes up till the time of their delivery to the agent on the coast of Africa ; but no express provision was made for their protection and support after they had reached the place of their destination. Still, an agent was to be appointed to receive them in Africa, and it could not have been supposed that Congress intended he should desert them at the moment they were received, and turn them loose on that inhospitable coast to perish for want of food, or to become again the victims of the slave trade. Had this been the intention of Congress, the employment of an agent to receive them, who is required to reside on the coast, was unnecessary, and they might have been landed by our vessels anywhere in Africa, and left exposed to the sufferings and the fate which would certainly await them.

" Mr. Monroe in his special message of the 17th December, 1819, at the first session after the act was passed, announced to Congress what, in his opinion, was its true construction. He believed it to be his duty under it, to follow these unfortunates into Africa, and make provision for them there until they should be able to provide for themselves. In communicating this interpretation of the act to Congress, he stated that some doubt had been entertained as to its true intent and

meaning, and he submitted the question to them, so that they might, 'should it be deemed advisable, amend the same before further proceedings are had under it.' Nothing was done by Congress to explain the act, and Mr. Monroe proceeded to carry it into execution according to his own interpretation. This, then, became the practical construction."

Adopting this construction of President Monroe, I entered into an agreement with the Colonization Society, dated 7th September, 1853, to receive the Africans who had been captured on the slaver *Echo* from the agent of the United States in Liberia, to furnish them, during the period of one year thereafter, with comfortable shelter, clothing, and provisions, and to cause them to be instructed in the arts of civilized life suitable to their condition, at the rate of \$150 for each individual. It was believed that within that period they would be prepared to become citizens of Liberia, and to take care of themselves.

As Congress was not then in session, and as there was no outstanding appropriation applicable to this purpose, the society were obliged to depend for payment on the future action of that body. I recommended this appropriation, and \$75,000 were granted by the act of 3d March, 1859, (the consular and diplomatic bill,) "to enable the President of the United States to carry into effect the act of Congress of 3d March, 1819, and any subsequent acts now in force for the suppression of the slave trade." Of this appropriation, there remains unexpended the sum of \$24,350.90, after deducting from it an advance made by the Secretary of the Interior, out of the judiciary fund, of \$11,348.10.

I regret to say, that under the mode adopted in regard to the Africans captured on board the *Echo*, the expense will be large; but this seems, to a great extent, to be inevitable without a violation of the laws of humanity. The expenditure upon this scale for those captured on board the *Wildfire* will not be less than one hundred thousand dollars, and may considerably exceed that sum. Still, it ought to be observed that, during the period when the Government itself, through its own agents, undertook the task of providing for the captured, in Africa, the cost per head was much greater than that which I agreed to pay the Colonization Society.

But it will not be sufficient for Congress to limit the amount appropriated to the case of the Wildfire. It is probable, judging from the increased activity of the slave trade, and the vigilance of our cruisers, that several similar captures may be made before the end of the year. An appropriation ought, therefore, to be granted large enough to cover such contingencies.

The period has arrived when it is indispensable to provide some specific legislation for the guidance of the Executive on this subject. With this view, I would suggest that Congress might authorize the President to enter into a general agreement with the Colonization Society, binding them to receive on the coast of Africa from an agent there, all the captured Africans which may be delivered to him, and to maintain them for a limited period, upon such terms and conditions as may combine humanity towards these unfortunates with a just economy. This would obviate the necessity of making a new bargain with every new capture, and would prevent delay, and avoid expense in the disposition of the captured. The law might then provide that in all cases where this may be practicable the captor should carry the negroes directly to Africa, and deliver them to the American agent there, afterwards bringing the captured vessel to the United States for adjudication.

The capturing officer, in case he should bring his prize directly to the United States, ought to be required to land the negroes in some one or more ports, to be designated by Congress, where the prevailing health throughout the year is good. At these ports, cheap but permanent accommodations might be provided for the negroes until they could be sent away, without incurring the expense of erecting such accommodations at every port where the capturing officer may think proper to enter. On the present occasion these negroes have been brought to Key West; and, according to the estimate presented by the Marshal of the southern district of Florida to the Secretary of the Interior, the cost of providing temporary quarters for them will be \$2500, and the aggregate expenses for the single month of May will amount to \$12,000. But this is far from being the worst evil. Within a few

weeks the yellow fever will most probably prevail at Key West ; and hence the marshal urges their removal from their present quarters at an early day, which must be done, in any event, as soon as practicable, for these reasons. I earnestly commend this subject to the immediate attention of Congress. I transmit herewith a copy of the letter and estimate of Fernando J. Moreno, Marshal of the southern district of Florida, to the Secretary of the Interior, dated 10th May, 1860, together with a copy of the letter of the Secretary of the Interior to myself, dated 16th May.

It is truly lamentable that Great Britain and the United States should be obliged to expend such a vast amount of blood and treasure for the suppression of the African slave trade, and this when the only portions of the civilized world where it is tolerated and encouraged are the Spanish Islands of Cuba and Porto Rico.

JAMES BUCHANAN.

WASHINGTON, *May* 19, 1860.

SPECIAL MESSAGE—PROTEST AGAINST THE PROCEEDINGS OF THE “COVODE” COMMITTEE.

The President refers to his Message of 28th March, last, protesting against the creation of this Committee.—This Committee has transcended the authority conferred upon it by the House, and has pursued a course at war with the Constitutional rights of the Executive, and tending to degrade the Presidential office to such a degree as to render it unworthy of the acceptance of any man of honor or principle.—The President shows in what matters the Committee wholly transcended its authority in the investigation.—Its examinations *ex parte* without notice to the President only made known to him by the publication in New York journals of such portions as could injuriously affect him, and all rebutting testimony being withheld from publication.—The most sacred and honorable confidences and correspondences violated, and persons in official and confidential relations to him examined by this Committee.—Distribution of patronage of the Government the most disagreeable duty.—Disappointed applicants, removed officers, and persons hostile to the Administration for any cause, real or imaginary—always a dangerous class of witnesses—were sought by this Committee.—The President's lips sealed.—He could not, as a co-ordinate branch of the Government, appear before a Committee to contradict the oaths of such witnesses.—Every coward knew he could employ insulting language against the President with impunity before such a Committee.—The lion's mouth at Venice, and the Star Chamber, and the Revolutionary tribunal of France in the days of Robespierre, compared.—Mr. Madison's and Mr. Jefferson's warning as to tendency of Legislature to usurp the rights of the weaker branches of the Government.—If these proceedings become a precedent, the Executive must from a co-ordinate, become practically a subordinate branch, and subservient to the wishes of the former, and the President be dragooned into submission to the will of those invested with such terrific power, and made their creature.—Shall he alone be denied a fair trial, and not be “informed of the nature and cause of accusation,” and not be “confronted with the witnesses?”—The resolution of Mr. John Sherman adopted by the House, reproving the President for an act never committed, an example.—The President, however, has passed triumphantly through this ordeal, and his vindication has been complete; but he desires to save his successors from similar unconstitutional proceedings, and therefore again enters his solemn protest against them.

To the House of Representatives :

In my message to the House of Representatives of the 28th March last, I solemnly protested against the creation of a

committee, at the head of which was placed my accuser, for the purpose of investigating whether the President had, "by money, patronage or other improper means, sought to influence the action of Congress, or any committee thereof, for or against the passage of any law appertaining to the rights of any State or Territory." I protested against this because it was destitute of any specification ; because it referred to no particular act to enable the President to prepare for his defence ; because it deprived him of the constitutional guards, which, in common with every citizen of the United States, he possesses for his protection ; and because it assailed his constitutional independence as a coördinate branch of the Government. There is an enlightened justice, as well as a beautiful symmetry, in every part of the Constitution. This is conspicuously manifested in regard to impeachments. The House of Representatives possesses "the sole power of impeachment ;" the Senate "the sole power to try all impeachments ;" and the impeachable offences are "treason, bribery, or other high crimes or misdemeanors." The practice of the House, from the earliest times, had been in accordance with its own dignity, the rights of the accused, and the demands of justice. At the commencement of each judicial investigation which might lead to an impeachment, specific charges were always preferred ; the accused had an opportunity of cross-examining the witnesses, and he was placed in full possession of the precise nature of the offence which he had to meet. An impartial and elevated standing committee was charged with this investigation, upon which no member inspired with the ancient sense of honor and justice would have served, had he ever expressed an opinion against the accused. Until the present occasion, it was never deemed proper to transform the accuser into the judge, and to confer upon him the selection of his own committee.

The charges made against me, in vague and general terms, were of such a false and atrocious character, that I did not entertain a moment's apprehension for the result. They were abhorrent to every principle instilled into me from my youth, and every practice of my life, and I did not believe it possible that the man existed who would so basely perjure himself as

to swear to the truth of any such accusations. In this conviction I am informed I have not been mistaken. In my former protest, therefore, I truly and emphatically declared that it was made for no reason personal to myself, but because the proceedings of the House were in violation of the rights of the coördinate executive branch of the Government, subversive of its constitutional independence, and, if unresisted, would establish a precedent dangerous and embarrassing to all my successors. Notwithstanding all this, if the committee had not transcended the authority conferred upon it by the resolution of the House of Representatives, broad and general as this was, I should have remained silent upon the subject. What I now charge is, that they have acted as though they possessed unlimited power, and, without any warrant whatever in the resolution under which they were appointed, have pursued a course not merely at war with the constitutional rights of the Executive, but tending to degrade the presidential office itself to such a degree as to render it unworthy of the acceptance of any man of honor or principle.

The resolution of the House, so far as it is accusatory of the President, is confined to an inquiry whether he had used corrupt or improper means to influence the action of Congress or any of its committees on legislative measures pending before them. Nothing more, nothing less. I have not learned through the newspapers, or in any other mode, that the committee have touched the other accusatory branch of the resolution, charging the President with a violation of duty in failing to execute some law or laws. This branch of the resolution is therefore out of the question. By what authority, then, have the committee undertaken to investigate the course of the President in regard to the convention which framed the Lecompton constitution? By what authority have they undertaken to pry into our foreign relations, for the purpose of assailing him on account of the instructions given by the Secretary of State to our minister in Mexico, relative to the Tehnantepec route? By what authority have they inquired into the causes of removal from office, and this from the parties themselves removed, with a view to prejudice his character, notwithstanding this power of removal belongs exclu-

sively to the President under the Constitution, was so decided by the first Congress in the year 1789, and has accordingly ever since been exercised? There is in the resolution no pretext of authority for the committee to investigate the question of the printing of the post-office blanks, nor is it to be supposed that the House, if asked, would have granted such an authority, because this question had been previously committed to two other committees—one in the Senate and the other in the House. Notwithstanding this absolute want of power, the committee rushed into this investigation in advance of all other subjects.

The committee proceeded for months, from March 22d, 1860, to examine *ex parte*, and without any notice to myself, into every subject which could possibly affect my character. Interested and vindictive witnesses were summoned and examined before them; and the first and only information of their testimony which, in almost every instance, I received, was obtained from the publication of such portions of it as could injuriously affect myself, in the New York journals. It mattered not that these statements were, so far as I have learned, disproved by the most respectable witnesses who happened to be on the spot. The telegraph was silent respecting these contradictions. It was a secret committee in regard to all the testimony which could by possibility reflect on my character. The poison was left to produce its effect upon the public mind, whilst the antidote was carefully withheld.

In their examinations the committee violated the most sacred and honorable confidences existing among men. Private correspondence, which a truly honorable man would never even entertain a distant thought of divulging, was dragged to light. Different persons in official and confidential relations with myself, and with whom it was supposed I might have held conversations, the revelation of which would do me injury, were examined. Even members of the Senate and members of my own cabinet, both my constitutional advisers, were called upon to testify, for the purpose of discovering something, if possible, to my discredit.

The distribution of the patronage of the Government is by far the most disagreeable duty of the President. Applicants

are so numerous, and their applications are pressed with such eagerness by their friends both in and out of Congress, that the selection of one for any desirable office gives offence to many. Disappointed applicants, removed officers, and those who for any cause, real or imaginary, had become hostile to the administration, presented themselves, or were invited by a summons to appear before the committee. These are the most dangerous witnesses. Even with the best intentions, they are so influenced by prejudice and disappointment, that they almost inevitably discolor truth. They swear to their own version of private conversations with the President without the possibility of contradiction. His lips are sealed and he is left at their mercy. He cannot, as a coördinate branch of the Government, appear before a committee of investigation to contradict the oaths of such witnesses. Every coward knows that he can employ insulting language against the President with impunity, and every false or prejudiced witness can attempt to swear away his character before such a committee without the fear of contradiction.

Thus for months, whilst doing my best at one end of the avenue to perform my high and responsible duties to the country, has there been a committee of the House of Representatives in session at the other end of the avenue, spreading a drag-net, without the shadow of authority from the House, over the whole Union, to catch any disappointed man willing to malign my character, and all this in secret conclave. The lion's mouth at Venice, into which secret denunciations were dropped, is an apt illustration of the Covode committee. The Star Chamber, tyrannical and odious as it was, never proceeded in such a manner. For centuries there has been nothing like it in any civilized country, except the revolutionary tribunal of France, in the days of Robespierre. Now, I undertake to state and to prove that should the proceedings of the committee be sanctioned by the House, and become a precedent for future times, the balance of the Constitution will be entirely upset, and there will no longer remain the three coördinate and independent branches of the Government—legislative, executive, and judicial. The worst fears of the patriots and statesmen who framed the Constitution in regard

to the usurpations of the legislative on the executive and judicial branches will then be realized. In the language of Mr. Madison, speaking on this very subject, in the forty-eighth number of the *Federalist*: "In a representative republic, where the executive magistracy is carefully limited both in the extent and duration of its power, and where the legislative power is exercised by an assembly which is inspired by a supposed influence over the people, with an intrepid confidence in its own strength, which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions by means which reason prescribes, it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions." And in the expressive and pointed language of Mr. Jefferson, when speaking of the tendency of the legislative branch of Government to usurp the rights of the weaker branches: "The concentrating these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the Republic of Venice. As little will it avail us that they are chosen by ourselves. An elective despotism was not the government we fought for, but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy, as that no one could transcend their legal limits without being effectually checked and controlled by the others."

Should the proceedings of the Covode committee become a precedent, both the letter and spirit of the Constitution will be violated. One of the three massive columns on which the whole superstructure rests will be broken down. Instead of the Executive being a coördinate it will become a subordinate branch of the Government. The presidential office will be dragged into the dust. The House of Representatives will then have rendered the Executive almost necessarily subservient to its wishes, instead of being independent. How is it

possible that two powers in the State can be coördinate and independent of each other, if the one claims and exercises the power to reprove and to censure all the official acts and all the private conversations of the other, and this upon *ex parte* testimony before a secret inquisitorial committee—in short, to assume a general censorship over the others? The idea is as absurd in public as it would be in private life. Should the President attempt to assert and maintain his own independence, future Covode committees may dragoon him into submission by collecting the hosts of disappointed office-hunters, removed officers, and those who desire to live upon the public treasury, which must follow in the wake of every administration, and they, in secret conclave, will swear away his reputation. Under such circumstances, he must be a very bold man should he not surrender at discretion and consent to exercise his authority according to the will of those invested with this terrific power. The sovereign people of the several States have elected him to the highest and most honorable office in the world. He is their only direct representative in the Government. By their Constitution they have made him commander-in-chief of their army and navy. He represents them in their intercourse with foreign nations. Clothed with their dignity and authority, he occupies a proud position before all nations, civilized and savage. With the consent of the Senate, he appoints all the important officers of the Government. He exercises the veto power, and to that extent controls the legislation of Congress. For the performance of these high duties he is responsible to the people of the several States, and not in any degree to the House of Representatives.

Shall he surrender these high powers, conferred upon him as the representative of the American people, for their benefit, to the House, to be exercised under their overshadowing influence and control? Shall he alone of all the citizens of the United States be denied a fair trial? Shall he alone not be “informed of the nature and cause of the accusation” against him? Shall he alone not “be confronted with the witnesses” against him? Shall the House of Representatives, usurping the powers of the Senate, proceed to try the Presi-

dent through the agency of a secret committee of the body where it is impossible he can make any defence, and then, without affording him an opportunity of being heard, pronounce a judgment of censure against him? The very same rule might be applied, for the very same reason, to every judge of every court in the United States. From what part of the Constitution is this terrible inquisitorial power derived? No such express power exists. From which of the enumerated powers can it be inferred? It is true the House cannot pronounce the formal judgment against him of "removal from office," but they can, by their judgment of censure, asperse his reputation, and thus, to the extent of their influence, render the office contemptible. An example is at hand of the reckless manner in which this power of censure can be employed in high party times. The House, on a recent occasion, have attempted to degrade the President by adopting the resolution of Mr. John Sherman, declaring that he, in conjunction with the Secretary of the Navy, "by receiving and considering the party relations of bidders for contracts, and the effect of awarding contracts upon pending elections, have set an example dangerous to the public safety, and deserving the reproof of this House."

It will scarcely be credited that the sole pretext for this vote of censure was the simple fact that in disposing of the numerous letters of every imaginable character which I daily receive, I had, in the usual course of business, referred a letter from Colonel Patterson, of Philadelphia, in relation to a contract, to the attention of the Secretary of the Navy, the head of the appropriate department, without expressing or intimating any opinion whatever on the subject; and to make the matter, if possible, still plainer, the Secretary had informed the committee that "*the President did not in any manner interfere in this case, nor has he in any other case of contract since I have been in the department.*" The absence of all proof to sustain this attempt to degrade the President, whilst it manifests the venom of the shaft aimed at him, has destroyed the vigor of the bow.

To return, after this digression. Should the House, by the institution of Covode committees, votes of censure, and other

devices to harass the President, reduce him to subservience to their will, and render him their creature, then the well-balanced Government which our fathers framed will be annihilated. This conflict has already been commenced in earnest by the House against the Executive. A bad precedent rarely if ever dies. It will, I fear, be pursued in the time of my successors, no matter what may be their political character. Should secret committees be appointed with unlimited authority to range over all the words and actions, and, if possible, the very thoughts of the President, with a view to discover something in his past life prejudicial to his character, from parasites and informers, this would be an ordeal which scarcely any mere man since the fall could endure. It would be to subject him to a reign of terror from which the stoutest and purest hearts might shrink. I have passed triumphantly through this ordeal. My vindication is complete. The committee have reported no resolution looking to an impeachment against me, no resolution of censure, not even a resolution pointing out any abuses in any of the executive departments of the Government to be corrected by legislation. This is the highest commendation which could be bestowed on the heads of these departments. The sovereign people of the States will, however, I trust, save my successors, whoever they may be, from any such ordeal. They are frank, bold, and honest. They detest delators and informers. I therefore, in the name and as the representative of this great people, and standing upon the ramparts of the Constitution which they "have ordained and established," do solemnly protest against these unprecedented and unconstitutional proceedings.

There was still another committee raised by the House on the 6th of March last, on motion of Mr. Heard, to which I had not the slightest objection. The resolution creating it was confined to specific charges, which I have ever since been ready and willing to meet. I have at all times invited and defied fair investigation upon constitutional principles. I have received no notice that this committee have ever proceeded to the investigation.

Why should the House of Representatives desire to encroach on the other departments of the Government? Their

rightful powers are ample for every legitimate purpose. They are the impeaching body. In their legislative capacity it is their most wise and wholesome prerogative to institute rigid examinations into the manner in which all departments of the Government are conducted, with a view to reform abuses, to promote economy, and to improve every branch of the administration. Should they find reason to believe, in the course of their examinations, that any grave offence had been committed by the President or any officer of the Government, rendering it proper, in their judgment, to resort to impeachment, their course would be plain. They would then transfer the question from their legislative to their accusatory jurisdiction, and take care that in all the preliminary judicial proceedings, preparatory to the vote of articles of impeachment, the accused should enjoy the benefit of cross-examining the witnesses, and all the other safeguards with which the Constitution surrounds every American citizen.

If, in a legislative investigation, it should appear that the public interest required the removal of any officer of the Government, no President has ever existed who, after giving him a fair hearing, would hesitate to apply the remedy. This I take to be the ancient and well-established practice. An adherence to it will best promote the harmony and the dignity of the intercourse between the coördinate branches of the Government, and render us all more respectable both in the eyes of our own countrymen and of foreign nations.

JAMES BUCHANAN.

• WASHINGTON, *June 22*, 1860.

SPECIAL MESSAGE OF THE PRESIDENT—HOME-STEAD BILL.

This bill gives to every citizen of the United States, who is the head of a family, and every person of foreign birth residing in the country, who has declared his intention to become a citizen, though not the head of a family, one hundred and sixty acres of Government land for twenty-five cents an acre, also donates to the States twelve million two hundred and twenty-nine thousand seven hundred and thirty-one acres.—The President refers to his opinion upon the Constitutionality of such grants as expressed in his Message of 24th February, 1859, returning the agricultural college bill.—It will be admitted that Congress cannot make donations of money already in the Treasury, raised by taxes on the people.—Its power to donate the public land is equally limited under the Constitution.—It would furthermore be unjust to the old settlers, who have paid \$1.25 per acre, that new settlers should receive their farms at the price of twenty-five or eighteen cents per acre.—This bill would do great injustice to the old soldiers who have received land warrants for patriotic services, by reducing the market value of these warrants.—It is a gift to one particular class of our people—cultivators of the soil. Mechanics and artisans are practically excluded from its benefits.—The bill is unjust to the old States.—Heretofore, the proceeds of the sale of public lands went into the common Treasury, and so benefited all the States.—Under this bill the old States would be deprived of their just proportion of this revenue.—This bill opens a vast field for demoralizing speculation.—Foreign-born settlers not even required to be heads of families, as in the case of American citizens.—It will seriously reduce the public revenue from sales of land, and destroy our present admirable land system, which will hereafter yield \$10,000,000 per annum of revenue.—This bill will tend to produce agrarian sentiment and other pernicious social theories, which have proved so disastrous in other countries.

To the Senate of the United States :

I return, with my objections, to the Senate, in which it originated, the bill entitled “An act to secure homesteads to actual settlers on the public domain, and for other purposes,” presented to me on the 20th instant.

This bill gives to every citizen of the United States, “who is the head of a family,” and to every person of foreign birth residing in the country, who has declared his intention to

become a citizen, though he may not be the head of a family, the privilege of appropriating to himself one hundred and sixty acres of Government land, of settling and residing upon it for five years ; and should his residence continue until the end of this period, he shall then receive a patent on the payment of twenty-five cents per acre, or one-fifth of the present Government price. During this period, the land is protected from all the debts of the settler.

This bill also contains a cession to the States of all the public lands within their respective limits " which have been subject to sale at private entry, and which remain unsold after the lapse of thirty years." This provision embraces a present donation to the States of twelve million two hundred and twenty-nine thousand seven hundred and thirty-one acres, and will, from time to time, transfer to them large bodies of such lands which, from peculiar circumstances, may not be absorbed by private purchase and settlement.

To the actual settler, this bill does not make an absolute donation ; but the price is so small that it can scarcely be called a sale. It is nominally twenty-five cents per acre ; but, considering this is not to be paid until the end of five years, it is, in fact, reduced to about eighteen cents per acre, or one-seventh of the present minimum price of the public lands. In regard to the States, it is an absolute and unqualified gift.

1. This state of the facts raises the question whether Congress, under the Constitution, has the power to give away the public lands either to States or individuals. On this question, I expressed a decided opinion in my message to the House of Representatives, of the 24th February, 1859, returning the agricultural college bill. This opinion remains unchanged. The argument then used applies, as a constitutional objection, with greater force to the present bill. There it had the plea of consideration, growing out of a specific beneficial purpose ; here, it is an absolute gratuity to the States without the pretext of consideration. I am compelled, for want of time, in these the last hours of the session to quote largely from this message.

I presume the general proposition will be admitted that Congress does not possess the power to make donations of

money already in the Treasury, raised by taxes on the people, either to States or individuals.

But it is contended that the public lands are placed upon a different footing from money raised by taxation, and that the proceeds arising from their sale are not subject to the limitations of the Constitution, but may be appropriated or given away by Congress, at its own discretion, to States, corporations, or individuals, for any purpose they may deem expedient.

The advocates of this bill attempt to sustain their position upon the language of the second clause of the third section of the fourth article of the Constitution, which declares that "the Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States." They contend that, by a fair interpretation of the words "dispose of" in this clause, Congress possesses the power to make this gift of public lands to the States for purposes of education.

It would require clear and strong evidence to induce the belief that the framers of the Constitution, after having limited the powers of Congress to certain, precise, and specific objects, intended by employing the words "dispose of," to give that body unlimited power over the vast public domain. It would be a strange anomaly, indeed, to have created two funds, the one by taxation, confined to the execution of the enumerated powers delegated to Congress, and the other from the public lands, applicable to all subjects, foreign and domestic, which Congress might designate. That this fund should be "disposed of," not to pay the debts of the United States, nor "to raise and support armies," nor "to provide and maintain a navy," nor to accomplish any one of the other great objects enumerated in the Constitution; but be diverted from them to pay the debts of the States, to educate their people, and to carry into effect any other measure of their domestic policy. This would be to confer upon Congress a vast and irresponsible authority, utterly at war with the well-known jealousy of Federal power which prevailed at the formation of the Constitution. The natural intendment would be that, as the Constitution confined Congress to well-defined specific powers, the funds placed at their command, whether in land or money, should be appropriated to the performance of the duties corresponding with these powers. If not, a government has been created with all its other powers carefully limited, but without any limitation in respect to the public lands.

But I cannot so read the words "dispose of" as to make them embrace the idea of "giving away." The true meaning of words is always to be ascertained by the subject to which they are applied, and the known general intent of the law-giver. Congress is a trustee under the Constitution for the people of the United States to "dispose of" their public lands; and I think I may venture to assert with confidence, that no case can be found in which a trustee in the position of Congress has been authorized to "*dispose of*" property by its owner, where it has ever been held that these words authorized such trustee to give away the fund intrusted to his care. No trustee, when called upon to account for the disposition of the property placed under his management before any judicial tribunal, would venture to present such a plea in his defence. The true meaning of these words is clearly stated by Chief Justice Taney in delivering the opinion of the court (19 Howard, p. 436). He says, in reference to this clause of the Constitution: "It begins its enumeration of powers by that of disposing, in other words, making sale of, the lands, or raising money from them, which, as we have already said, was the main object of the cession (from the States), and which is the first thing provided for in the article." It is unnecessary to refer to the history of the times to establish the known fact that this statement of the Chief Justice is perfectly well-founded. That it never was intended by the framers of the Constitution that these lands should be given away by Congress is manifest from the concluding portion of the same clause. By it, Congress has power not only "to dispose of" the territory, but of the "other property of the United States." In the language of the Chief Justice (p. 437): "And the same power of making needful rules respecting the territory is in precisely the same language applied to the other property of the United States, associating the power over the territory, in this respect, with the power over movable or personal property—that is, the ships, arms, or munitions of war which then belonged in common to the State sovereignties."

The question is still clearer in regard to the public lands in the States and territories within the Louisiana and Florida purchases. These lands were paid for out of the public Treasury from money raised by taxation. Now, if Congress had no power to appropriate the money with which these lands were purchased, is it not clear that the power over the lands is equally limited? The mere conversion of this money into land could not confer upon Congress new power over the disposition of land which they had not possessed over money.

If it could, then a trustee, by changing the character of the fund intrusted to his care for special objects from money paid into land, might give the land away, or devote it to any purpose he thought proper, however foreign from the trust. The inference is irresistible that this land partakes of the very same character with the money paid for it, and can be devoted to no objects different from those to which the money could have been devoted. If this were not the case, then, by the purchase of a new territory from a foreign Government out of the public Treasury, Congress could enlarge their own powers, and appropriate the proceeds of the sales of the land thus purchased, at their own discretion, to other and far different objects from what they could have applied the purchase money which had been raised by taxation.

2. It will prove unequal and unjust in its operation among the actual settlers themselves.

The first settlers of a new country are a most meritorious class. They brave the dangers of savage warfare, suffer the privations of a frontier life, and with the hand of toil bring the wilderness into cultivation. The "old settlers," as they are everywhere called, are public benefactors. This class have all paid for their lands the Government price, or \$1.25 per acre. They have constructed roads, established schools, and laid the foundation of prosperous commonwealths. Is it just, is it equal, that, after they have accomplished all this by their labor, new settlers should come in among them and receive their farms at the price of twenty-five or eighteen cents per acre? Surely the old settlers, as a class, are entitled to at least equal benefits with the new. If you give the new settlers their land for a comparatively nominal price, upon every principle of equality and justice you will be obliged to refund out of the common treasury the difference which the old have paid above the new settlers for their land.

3. This bill will do great injustice to the old soldiers who have received land warrants for their services in fighting the battles of their country. It will greatly reduce the market value of these warrants. Already their value has sunk, for one hundred and sixty acre warrants, to sixty-seven cents per acre, under an apprehension that such a measure as this might become a law. What price would they command, when any

head of a family may take possession of a quarter section of land and not pay for it until the end of five years, and then at the rate of only twenty-five cents per acre? The magnitude of the interest to be effected will appear in the fact that there are outstanding unsatisfied land warrants reaching back to the last war with Great Britain, and even Revolutionary times, amounting, in round numbers, to seven and a half millions of acres.

4. This bill will prove unequal and unjust in its operation, because, from its nature, it is confined to one class of our people. It is a boon exclusively conferred upon the cultivators of the soil. Whilst it is cheerfully admitted that these are the most numerous and useful class of our fellow-citizens, and eminently deserve all the advantages which our laws have already extended to them, yet there should be no new legislation which would operate to the injury or embarrassment of the large body of respectable artisans and laborers. The mechanic who emigrates to the West and pursues his calling must labor long before he can purchase a quarter section of land, whilst the tiller of the soil who accompanies him obtains a farm at once by the bounty of the Government. The numerous body of mechanics in our large cities cannot, even by emigrating to the West, take advantage of the provisions of this bill without entering upon a new occupation, for which their habits of life have rendered them unfit.

5. This bill is unjust to the old States of the Union in many respects; and amongst these States, so far as the public lands are concerned, we may enumerate every State east of the Mississippi, with the exception of Wisconsin and a portion of Minnesota.

It is a common belief, within our limits, that the older States of the Confederacy do not derive their proportionate benefit from the public lands. This is not a just opinion. It is doubtful whether they could be rendered more beneficial to these States under any other system than that which at present exists. Their proceeds go into the common treasury to accomplish the objects of the Government, and in this manner all the States are benefited in just proportion. But to give this common inheritance away would deprive the old States of

their just proportion of this revenue without holding out any, the least, corresponding advantage. Whilst it is our common glory that the new States have become so prosperous and populous, there is no good reason why the old States should offer premiums to their own citizens to emigrate from them to the West. That land of promise presents in itself sufficient allurements to our young and enterprising citizens, without any adventitious aid. The offer of free farms would probably have a powerful effect in encouraging emigration, especially from States like Illinois, Tennessee, and Kentucky, to the west of the Mississippi, and could not fail to reduce the price of property within their limits. An individual in States thus situated would not pay its fair value for land when, by crossing the Mississippi, he could go upon the public lands and obtain a farm almost without money and without price.

6. This bill will open one vast field for speculation. Men will not pay \$1.25 for lands when they can purchase them for one-fifth of that price. Large numbers of actual settlers will be carried out by capitalists upon agreements to give them half of the land for the improvement of the other half. This cannot be avoided. Secret agreements of this kind will be numerous. In the entry of graduated lands the experience of the Land Office justifies this objection.

7. We ought ever to maintain the most perfect equality between native and naturalized citizens. They are equal, and ought always to remain equal before the laws. Our laws welcome foreigners to our shores, and their rights will ever be respected. Whilst these are the sentiments on which I have acted through life, it is not, in my opinion, expedient to proclaim to all the nations of the earth that whoever shall arrive in this country from a foreign shore and declare his intention to become a citizen shall receive a farm of one hundred and sixty acres at a cost of twenty-five or twenty cents per acre, if he will only reside on it and cultivate it. The invitation extends to all; and if this bill becomes a law we may have numerous actual settlers from China and other Eastern nations enjoying its benefits on the great Pacific slope. The bill makes a distinction in favor of such persons over native and naturalized citizens. When applied to such citizens, it is

confined to such as are the heads of families, but when applicable to persons of foreign birth recently arrived on our shores, there is no such restriction. Such persons need not be the heads of families, provided they have filed a declaration of intention to become citizens. Perhaps this distinction was an inadvertence, but it is, nevertheless, a part of the bill.

8. The bill creates an unjust distinction between persons claiming the benefit of the pre-emption laws. Whilst it reduces the price of the land to existing pre-emptors to sixty-two and a half cents per acre, and gives them a credit on this sum for two years from the present date, no matter how long they may have hitherto enjoyed the land, future pre-emptors will be compelled to pay double this price per acre. There is no reason or justice in this discrimination.

9. The effect of this bill on the public revenue must be apparent to all. Should it become a law, the reduction of the price of land to actual settlers to twenty-five cents per acre, with a credit of five years, and the reduction of its price to existing pre-emptors to sixty-two and a half cents per acre, with a credit of two years, will so diminish the sale of other public lands as to render the expectation of future revenue from that source, beyond the expenses of survey and management, illusory. The Secretary of the Interior estimated the revenue from the public lands for the next fiscal year at \$4,000,000, on the presumption that the present land system would remain unchanged. Should this bill become a law, he does not believe that \$1,000,000 will be derived from this source.

10. This bill lays the axe at the root of our present admirable land system. The public land is an inheritance of vast value to us and to our descendants. It is a resource to which we can resort in the hour of difficulty and danger. It has been managed heretofore with the greatest wisdom under existing laws. In this management the rights of actual settlers have been conciliated with the interests of the Government. The price to all has been reduced from \$2 per acre to \$1.25 for fresh lands, and the claims of actual settlers have been secured by our pre-emption laws. Any man can now acquire a title in fee-simple to a homestead of eighty acres, at the

minimum price of \$1.25 per acre, for \$100. Should the present system remain, we shall derive a revenue from the public lands of \$10,000,000 per annum, when the bounty-land warrants are satisfied, without oppression to any human being. In time of war, when all other sources of revenue are seriously impaired, this will remain intact. It may become the best security for public loans hereafter, in times of difficulty and danger, as it has been heretofore. Why should we impair or destroy the system at the present moment? What necessity exists for it?

The people of the United States have advanced with steady but rapid strides to their present condition of power and prosperity. They have been guided in their progress by the fixed principle of protecting the equal rights of all, whether they be rich or poor. No agrarian sentiment has ever prevailed among them. The honest poor man, by frugality and industry, can, in any part of our country, acquire a competence for himself and his family, and in doing this he feels that he eats the bread of independence. He desires no charity, either from the Government or from his neighbors. This bill, which proposes to give him land at an almost nominal price, out of the property of the Government, will go far to demoralize the people, and repress this noble spirit of independence. It may introduce among us those pernicious social theories which have proved so disastrous in other countries.

JAMES BUCHANAN.

June 22, 1860.

SPECIAL MESSAGE—CALIFORNIA MAIL SERVICE.

To the Senate and House of Representatives :

GENTLEMEN : I feel it my duty to communicate to you that it has been found impracticable to conclude a contract for the transportation of the mails between our Atlantic and Pacific ports on the terms authorized by the fourth section of an act entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1861," approved June 15, 1860. The Postmaster General has offered the California mails to several companies and ship-owners engaged in the trade with the Pacific, *via* the Isthmus, but they have all declined carrying them for the postages. They demand a higher rate of compensation, and unless power is given to the Postmaster General to accede to this demand, I am well satisfied that these mails, with the exception of the letters, cannot be forwarded. It should not be forgotten that, in consequence of the diversion of a large part of the letter mail to the overland route, the postage derived from the California service has been greatly reduced, and affords a wholly inadequate remuneration for the ocean transportation. The weight of these mails, averaging from twelve to fifteen tons, semi-monthly, renders it, in view of the climate and character of the road, manifestly impossible to forward them overland without involving an expenditure which no wise administration of the Government would impose upon the Treasury. I therefore earnestly recommend that the act referred to be so modified as to empower the Postmaster General to provide for carrying the California mails at a rate of compensation which may be deemed reasonable and just.

JAMES BUCHANAN.

June 23, 1860.

SPECIAL MESSAGE—CAPTURED AFRICANS.

To the Senate and House of Representatives :

I transmit herewith the copy of a letter dated yesterday, from the Secretary of the Interior, communicating the copy of a letter addressed to him on the 13th instant, by Fernando I. Moreno, Marshal of the southern district of Florida. From this it appears that Lieutenant Stanley, of the United States Steamer Wyandotte, captured the bark William, with about five hundred and fifty African negroes on board, on the south side of Cuba, near the Isle of Pines, and brought her into Key West, on the 12th instant. Those negroes have doubtless been delivered to the marshal, and, with those captured on board the Wildfire, will make the number in his custody about one thousand. More may be daily expected at Key West, which, both on account of a deficiency of water and provisions, and its exposure to the yellow fever, is one of the worst spots for an African negro depot which could be found on the coast of the United States.

JAMES BUCHANAN.

SPECIAL MESSAGE OF THE PRESIDENT.

Appropriation for the Washington Aqueduct.—The President questions the right of Congress to direct that it shall be expended under the superintendence of Captain Meigs of the Army.—The President, as Commander-in-Chief, has the sole right under the Constitution to order an officer of the Army to duty.—Demoralizing effect upon the Army of any such precedent.—The President construes the direction to be merely an expression by Congress of a preference.

To the House of Representatives :

I have approved and signed the bill entitled “ An act making appropriation for sundry civil expenses of the Government for the year ending the 30th June, 1861.”

In notifying the House of my approval of this bill, I deem it proper, under the peculiar circumstances of the case, to make a few explanatory observations, so that my course may not hereafter be misunderstood.

Amid a great variety of important appropriations, this bill contains an appropriation “ for the completion of the Washington Aqueduct, \$500,000, to be expended according to the plans and estimates of Captain Meigs, and under his superintendence ; provided that the office of engineer of the Potomac water-works is hereby abolished, and its duties shall hereafter be discharged by the chief engineer of the Washington Aqueduct.” To this appropriation, for a wise and beneficial object, I have not the least objection. It is true I had reason to believe, when the last appropriation was made, of \$800,000, on the 12th June, 1858, “ for the completion of the Washington Aqueduct,” that this would have been sufficient for the purpose. It is now discovered, however, that it will require \$500,000 more “ for the completion of the Washington Aqueduct,” and this ought to be granted.

The Captain Meigs to whom the bill refers is Montgomery C. Meigs, a captain in the corps of engineers of the Army of

the United States, who has superintended this work from its commencement, under the authority of the late and present Secretary of War.

Had this appropriation been made in the usual form, no difficulty could have arisen upon it. This bill, however, annexes a declaration to the appropriation that the money is to be expended under the superintendence of Captain Meigs.

The first aspect in which this clause presented itself to my mind was that it interfered with the right of the President to be "Commander-in-Chief of the Army and Navy of the United States." If this had really been the case there would have been an end to the question. Upon further examination, I deemed it impossible that Congress could have intended to interfere with the clear right of the President to command the army and to order its officers to any duty he might deem most expedient for the public interest. If they could withdraw an officer from the command of the President, and select him for the performance of an Executive duty, they might, upon the same principle, annex to an appropriation to carry on a war a condition requiring it not to be used for the defence of the country unless a particular person of its own selection should command the army. It was impossible that Congress could have had such an intention, and, therefore, according to my construction of the clause in question, it merely designated Captain Meigs as its preference for the work, without intending to deprive the President of the power to order him to any other army duty for the performance of which he might consider him better adapted. Still, whilst this clause may not be, and I believe is not, a violation of the Constitution, yet, how destructive it would be to all proper subordination, and how demoralizing in its effect upon the *morale* of the army, if it should become a precedent for future legislation. Officers might then be found, instead of performing their appropriate duties, besieging the halls of Congress for the purpose of obtaining special favors and choice places by legislative enactment. Under these circumstances, I have deemed it but fair to inform Congress that, whilst I do not consider the bill unconstitutional, this is only because, in my opinion, Congress did not intend, by the lan-

guage which they have employed, to interfere with my absolute authority to order Captain Meigs to any other service I might deem expedient. My perfect right still remains, notwithstanding the clause, to send him away from Washington to any part of the Union to superintend the erection of a fortification or any other appropriate duty.

It has been alleged, I think without sufficient cause, that this clause is unconstitutional, because it has created a new office, and has appointed Captain Meigs to perform its duties. If it had done this it would have been a clear question, because Congress have no right to appoint to any office, this being specially conferred upon the President and Senate. It is evident Congress intended nothing more by this clause than to express a decided opinion that Captain Meigs should be continued in the employment to which he had been previously assigned by competent authority.

It is not improbable that another question of grave importance may arise out of this clause. Is the appropriation conditional, and will it fall provided I do not deem it proper that it shall be expended under the superintendence of Captain Meigs?

This is a question which shall receive serious consideration, because upon its decision may depend whether the completion of the water-works shall be arrested for another season. It is not probable that Congress could have intended that this great and important work should depend upon the various casualties and vicissitudes incident to the natural or official life of a single officer of the army. This would be to make the work subordinate to the man, and not the man to the work, and to reverse our great axiomatic rule of "Principles, not men." I desire to express no opinion upon the subject. Should the question ever arise, it shall have my serious consideration.

JAMES BUCHANAN.

WASHINGTON, 26 *June*, 1860.

SPECIAL MESSAGE—VIRGINIA PEACE RESOLUTIONS.

The President submits to Congress the peace resolutions of the Legislature of Virginia.—The invitation contained in them.—The President hails this movement with great satisfaction.—A Commissioner, ex-President Tyler, appointed to the President, also a Commissioner to the State of South Carolina and others, with instructions to request these to abstain, pending the proposed peace efforts, from acts calculated to produce collision of arms.—The President unable to make such an agreement, as Congress alone possess this power ; this policy cordially commended to them.—If the seceding States abstain the danger will not exist, as defence and not aggression has been the policy of the Administration.—The President “ will never despair of the Republic.”—The American people will perpetuate the Union on some terms just and honorable to all sections of the country.

To the Senate and House of Representatives of the United States :

I deem it my duty to submit to Congress a series of resolutions adopted by the Legislature of Virginia, of the 19th instant, having in view a peaceful settlement of the exciting questions which now threaten the Union. They were delivered to me on Thursday, the 24th instant, by ex-President Tyler, who has left his dignified and honored retirement in the hope that he may render service to his country in this its hour of peril. These resolutions, it will be perceived, extend an invitation “ to all such States, whether slaveholding or non-slaveholding, as are willing to unite with Virginia in an earnest effort to adjust the present unhappy controversies in the spirit in which the Constitution was originally formed, and consistently with its principles, so as to afford to the people of the slaveholding States adequate guarantees for the security of their rights, to appoint commissioners to meet on the 4th day of February next, in the city of Washington,

similar commissioners appointed by Virginia, to consider, and, if practicable, agree upon some suitable adjustment."

I confess I hail this movement on the part of Virginia with great satisfaction. From the past history of this ancient and renowned Commonwealth, we have the fullest assurance that what she has undertaken she will accomplish, if it can be done by able, enlightened, and persevering efforts. It is highly gratifying to know that other patriotic States have appointed, and are appointing, commissioners to meet those of Virginia in council. When assembled, they will constitute a body entitled, in an eminent degree, to the confidence of the country.

The General Assembly of Virginia have also resolved "that ex-President John Tyler is hereby appointed, by the concurrent vote of each branch of the General Assembly, a commissioner to the President of the United States; and Judge John Robertson is hereby appointed, by a like vote, a commissioner to the State of South Carolina and the other States that have seceded or shall secede, with instructions respectfully to request the President of the United States, and the authorities of such States, to agree to abstain, pending the proceedings contemplated by the action of this General Assembly, from any and all acts calculated to produce a collision of arms between the States and the Government of the United States."

However strong may be my desire to enter into such an agreement, I am convinced that I do not possess the power. Congress, and Congress alone, under the war-making power, can exercise the discretion of agreeing to abstain "from any and all acts calculated to produce a collision of arms" between this and any other Government. It would therefore be a usurpation for the Executive to attempt to restrain their hands by an agreement in regard to matters over which he has no constitutional control. If he were thus to act they might pass laws which he should be bound to obey, though in conflict with his agreement.

Under existing circumstances, my present actual power is confined within narrow limits. It is my duty at all times to defend and protect the public property within the seceding States so far as this may be practicable, and especially to em-

ploy all constitutional means to protect the property of the United States, and to preserve the public peace at this the seat of the Federal Government. If the seceding States abstain "from any and all acts calculated to produce a collision of arms," then the danger so much to be deprecated will no longer exist. Defence and not aggression has been the policy of the administration from the beginning.

But whilst I can enter into no engagement such as that proposed, I cordially commend to Congress, with much confidence that it will meet their approbation, to abstain from passing any law calculated to produce a collision of arms pending the proceedings contemplated by the action of the General Assembly of Virginia. I am one of those who will never despair of the Republic. I yet cherish the belief that the American people will perpetuate the Union of the States on some terms just and honorable for all sections of the country. I trust that the mediation of Virginia may be the destined means, under Providence, of accomplishing this inestimable benefit. Glorious as are the memories of her past history, such an achievement, both in relation to her own fame and the welfare of the whole country, would surpass them all.

JAMES BUCHANAN.

WASHINGTON CITY, *January* 28, 1861.

CONSTITUTION OF THE UNITED STATES— PROPOSITION TO AMEND.

Special Message from the President, transmitting Resolutions of the Legislature of Kentucky.—Applying for the call of a Convention for proposing amendments to the Constitution of the United States.

To the Senate and House of Representatives :

I have received from the governor of Kentucky certain resolutions adopted by the general assembly of that Commonwealth, containing an application to Congress for the call of a convention for proposing amendments to the Constitution of the United States, with a request that I should immediately place the same before that body. It affords me great satisfaction to perform this duty ; and I feel quite confident that Congress will bestow upon these resolutions the careful consideration to which they are eminently entitled, on account of the distinguished and patriotic source from which they proceed, as well as the great importance of the subject which they involve.

JAMES BUCHANAN.

WASHINGTON, *February 5*, 1861.

SOUTH CAROLINA AFFAIRS.

Special Message from the President, transmitting correspondence in relation to Fort Sumter, etc.

To the Senate and House of Representatives :

I deemed it a duty to transmit to Congress, with my message of the 8th of January, the correspondence which occurred in December last between the "commissioners" of South Carolina and myself.

Since that period, on the 14th January Colonel Isaac W. Hayne, the attorney general of South Carolina, called and informed me that he was the bearer of a letter from Governor Pickens to myself, which he would deliver the next day. He was, however, induced, by the interposition of Hon. Jefferson Davis and nine other senators from the seceded and seceding States, not to deliver it on the day appointed, nor was it communicated to me until the 31st of January, with his letter of that date. Their letter to him urging this delay bears date January 15, and was the commencement of a correspondence, the whole of which in my possession I now submit to Congress. A reference to each letter of the series, in proper order, accompanies this message.

JAMES BUCHANAN.

WASHINGTON, *February 8*, 1861.

SEIZURE OF NEW ORLEANS MINT.

Special Message from the President in relation to the seizure of the Mint
at New Orleans.

To the House of Representatives of the United States:

In answer to a resolution of the House of Representatives, adopted on the 11th instant, respecting the seizure of the mint at New Orleans, with a large sum of money therein, by the authorities of the State of Louisiana, the refusal of the treasurer of the branch mint to pay drafts of the United States, &c., I have to state that all the information within my possession or power on these subjects was communicated to the House by the Secretary of the Treasury on the 21st instant, and was prepared under the resolution above referred to, and a resolution of the same date addressed to himself.

JAMES BUCHANAN.

WASHINGTON, *February* 23, 1861.

ASSEMBLING OF TROOPS IN WASHINGTON CITY.

Special Message from the President in answer to a Resolution of the House calling for information in regard to the assembling of troops in the City of Washington.

To the House of Representatives :

In answer to their resolution of the 11th instant " that the President of the United States furnish to this House, if not incompatible with the public service, the reasons that have induced him to assemble so large a number of troops in this city, and why they are kept here ; and whether he has any information of a conspiracy upon the part of any portion of the citizens of this country to seize upon the capital and prevent the inauguration of the President elect."

The President submits that the number of troops assembled in this city is not large, as the resolution presupposes, its total amount being six hundred and fifty-three men, exclusive of the marines, who are, of course, at the navy yard as their appropriate station. These troops were ordered here to act as a *posse comitatus*, in strict subordination to the civil authority, for the purpose of preserving peace and order in the city of Washington, should this become necessary, before or at the period of the inauguration of the President elect.

Since the date of the resolution, the Hon. Mr. Howard, from the select committee, has made a report to the House on this subject. It was thoroughly investigated by that committee ; and although they have expressed the opinion " that the evidence produced before them does not prove the existence of a secret organization here or elsewhere, hostile to the government, that has for its object, upon its own responsibility, an attack upon the Capitol or any of the public property here, or an interruption of any of the functions of the government ;" yet the House laid upon the table, by a very

large majority, a resolution expressing the opinion "that the regular troops now in this city ought to be forthwith removed therefrom." This of itself was a sufficient reason for not withdrawing the troops.

But what was the duty of the President at the time the troops were ordered to this city? Ought he to have waited, before this precautionary measure was adopted, until he could obtain proof that a secret conspiracy existed to seize the capital? In the language of the select committee, this was "in a time of high excitement consequent upon revolutionary events transpiring all around us, the very air filled with rumors, and individuals indulging in the most extravagant expressions of fears and threats." Under these and other circumstances, which I need not detail, but which appear in the testimony before the select committee, I was convinced that I ought to act. The safety of the immense amount of public property in this city and that of the archives of the government, in which all the States, and especially the new States, in which the public lands are situated, have a deep interest; the peace and order of the city itself, and the security of the inauguration of the President elect, were objects of such vast importance to the whole country that I could not hesitate to adopt precautionary defensive measures. At the present moment, when all is quiet, it is difficult to realize the state of alarm which prevailed when the troops were first ordered to this city. This almost instantly subsided after the arrival of the first company, and a feeling of comparative peace and security has since existed both in Washington and throughout the country. Had I refused to adopt this precautionary measure, and evil consequences, which many good men at the time apprehended, had followed, I should never have forgiven myself.

JAMES BUCHANAN.

WASHINGTON, *March 1*, 1861.

SPECIAL MESSAGE FROM THE PRESIDENT OF
THE UNITED STATES, COMMUNICATING COP-
IES OF CORRESPONDENCE WITH THE
“COMMISSIONERS” OF SOUTH CAROLINA.

The President refers to his Annual Message of December last, and states that his convictions as to the measures needed to save the country from its peril remain unchanged. There has been no change for the better since, but the reverse.—The prospect of a bloodless settlement is fading away from the continued inaction of Congress.—The Treasury notes authorized by act of 17th December last find no bidders at par for a less rate of interest than twelve per cent.—Domestic strife, and fear of civil hostilities, more destructive to our interests than the most formidable foreign war.—The President reaffirms his conviction that no State can secede from the Union, and the Executive has no authority to recognize secession. It is still his purpose to collect the public revenues, and protect the public property, so far as existing laws enable him. It is for Congress to repeal, modify, or enlarge these laws to meet the exigency.—The President decides that he has no right to make aggressive war upon any State as such, and is satisfied that the Constitution has withheld that power even from Congress. It is, however, clear and undeniable, that military force can be used defensively against all who resist the Federal officers in the execution of their legal functions, and those who assail the Federal property, but the ordinary Executive powers, as already provided by law, are insufficient. Congress alone authorized to meet the existing emergency. They alone can authorize the employment of adequate military force, and provide the same or remove dangerous grievances.—The Union a sacred trust.—Its incalculable advantages to all sections.—The secession movement chiefly based on misapprehension at the South of the sentiments of the majority in several of the Northern States.—A common ground for conciliation and harmony not unattainable.—A compromise by letting the North have exclusive control of the territory above a certain line, and to give Southern institutions protection below that line, ought to meet universal approbation.—Forts, arsenals, and magazines of the United States have been seized ; this seizure purely aggressive.—The President's determined purpose not to commence or furnish the excuse for civil war, and for this reason he has refrained from reinforcing General Anderson unless absolutely necessary.—Reasons for General Anderson's removal from Fort Moultrie to Fort Sumter, and his authority to do so under orders of the War Department of December 11th.—Apprehensions of disturbance of peace of District of Columbia on ap-

proaching 4th March. In any event, the President's duty to preserve it shall be performed by him.

To the Senate and House of Representatives :

At the opening of your present session I called your attention to the dangers which threatened the existence of the Union. I expressed my opinion freely concerning the original causes of these dangers, and recommended such measures as I believed would have the effect of tranquillizing the country and saving it from the peril in which it had been needlessly and most unfortunately involved. Those opinions and recommendations I do not propose now to repeat. My own convictions upon the whole subject remain unchanged.

The fact that a great calamity was impending over the nation was even at that time acknowledged by every intelligent citizen. It had already made itself felt throughout the length and breadth of the land. The necessary consequences of the alarm thus produced were most deplorable. The imports fell off with a rapidity never known before, except in time of war, in the history of our foreign commerce ; the treasury was unexpectedly left without the means which it had reasonably counted upon to meet the public engagements ; trade was paralyzed ; manufactures were stopped ; the best public securities suddenly sunk in the market ; every species of property depreciated more or less ; and thousands of poor men, who depended upon their daily labor for their daily bread, were turned out of employment.

I deeply regret that I am not able to give you any information upon the State of the Union which is more satisfactory than what I was then obliged to communicate. On the contrary, matters are still worse at present than they then were. When Congress met, a strong hope pervaded the whole public mind that some amicable adjustment of the subject would speedily be made by the representatives of the States and of the people, which might restore peace between the conflicting sections of the country. That hope has been diminished by every hour of delay ; and as the prospect of a bloodless settlement fades away, the public distress becomes more and more aggravated. As evidence of this it is only necessary to say

that the treasury notes authorized by the act of 17th December last were advertised, according to the law, and that no responsible bidder offered to take any considerable sum at par at a lower rate of interest than twelve per cent. From these facts it appears that, in a government organized like ours, domestic strife, or even a well-grounded fear of civil hostilities, is more destructive to our public and private interests than the most formidable foreign war.

In my annual message I expressed the conviction, which I have long deliberately held, and which recent reflection has only tended to deepen and confirm, that no State has a right by its own act to secede from the Union, or throw off its federal obligations at pleasure. I also declared my opinion to be that, even if that right existed and should be exercised by any State of the confederacy, the executive department of this government had no authority under the Constitution to recognize its validity by acknowledging the independence of such State. This left me no alternative, as the chief executive officer under the Constitution of the United States, but to collect the public revenues and to protect the public property so far as this might be practicable under existing laws. This is still my purpose. My province is to execute, and not to make, the laws. It belongs to Congress, exclusively, to repeal, to modify, or to enlarge their provisions, to meet exigencies as they may occur. I possess no dispensing power.

I certainly had no right to make aggressive war upon any State, and I am perfectly satisfied that the Constitution has wisely withheld that power even from Congress. *But the right and the duty to use military force defensively against those who resist the federal officers in the execution of their legal functions, and against those who assail the property of the federal government, is clear and undeniable.*

But the dangerous and hostile attitude of the States towards each other has already far transcended and cast in the shade the ordinary executive duties already provided for by law, and has assumed such vast and alarming proportions as to place the subject entirely above and beyond executive control. The fact cannot be disguised that we are in the midst of a great revolution. In all its various bearings, therefore, I

commend the question to Congress, as the only human tribunal, under Providence, possessing the power to meet the existing emergency. To them, exclusively, belongs the power to declare war, or to authorize the employment of military force in all cases contemplated by the Constitution ; and they alone possess the power to remove grievances which might lead to war, and to secure peace and union to this distracted country. On them, and on them alone, rests the responsibility.

The Union is a sacred trust left by our revolutionary fathers to their descendants ; and never did any other people inherit so rich a legacy. It has rendered us prosperous in peace and triumphant in war. The national flag has floated in glory over every sea. Under its shadow American citizens have found protection and respect in all lands beneath the sun. If we descend to considerations of purely material interest, when, in the history of all time, has a confederacy been bound together by such strong ties of mutual interest ? Each portion of it is dependent on all, and all upon each portion, for prosperity and domestic security. Free trade throughout the whole supplies the wants of one portion from the productions of another, and scatters wealth everywhere. The great planting and farming States require the aid of the commercial and navigating States to send their productions to domestic and foreign markets, and to furnish the naval power to render their transportation secure against all hostile attacks.

Should the Union perish in the midst of the present excitement we have already had a sad foretaste of the universal suffering which would result from its destruction. The calamity would be severe in every portion of the Union, and would be quite as great, to say the least, in the southern as in the northern States. The greatest aggravation of the evil, and that which would place us in the most unfavorable light both before the world and posterity is, as I am firmly convinced, that the secession movement has been chiefly based upon a misapprehension at the south of the sentiments of the majority in several of the northern States. Let the question be transferred from political assemblies to the ballot-box, and the people themselves would speedily redress the serious grievances which the south have suffered. But, in Heaven's name,

let the trial be made before we plunge into armed conflict upon the mere assumption that there is no other alternative. Time is a great conservative power. Let us pause at this momentous point and afford the people, both north and south, an opportunity for reflection. Would that South Carolina had been convinced of this truth before her precipitate action ! I, therefore, appeal through you to the people of the country to declare in their might that the Union must and shall be preserved by all constitutional means. I most earnestly recommend that you devote yourselves, exclusively, to the question how this can be accomplished in peace. All other questions, when compared with this, sink into insignificance. The present is no time for palliations ; action, prompt action, is required. A delay in Congress to prescribe or to recommend a distinct and practical proposition for conciliation may drive us to a point from which it will be almost impossible to recede.

A common ground on which conciliation and harmony can be produced is surely not unattainable. The proposition to compromise by letting the north have exclusive control of the territory above a certain line, and to give southern institutions protection below that line, ought to receive universal approbation. In itself, indeed, it may not be entirely satisfactory ; but when the alternative is between a reasonable concession on both sides and a destruction of the Union, it is an imputation upon the patriotism of Congress to assert that its members will hesitate for a moment.

Even now the danger is upon us. In several of the States which have not yet seceded the forts, arsenals and magazines of the United States have been seized. This is by far the most serious step which has been taken since the commencement of the troubles. This public property has long been left without garrisons and troops for its protection, because no person doubted its security under the flag of the country in any State of the Union. Besides, our small army has scarcely been sufficient to guard our remote frontiers against Indian incursions. The seizure of this property, from all appearances, has been purely aggressive, and not in resistance to any attempt to coerce a State or States to remain in the Union.

At the beginning of these unhappy troubles I determined that no act of mine should increase the excitement in either section of the country. If the political conflict were to end in a civil war, it was my determined purpose not to commence it, nor even to furnish an excuse for it by any act of this government. My opinion remains unchanged, that justice as well as sound policy requires us still to seek a peaceful solution of the questions at issue between the north and the south. Entertaining this conviction, I refrained even from sending reinforcements to Major Anderson, who commanded the forts in Charleston harbor, until an absolute necessity for doing so should make itself apparent, lest it might unjustly be regarded as a menace of military coercion, and thus furnish, if not a provocation, at least a pretext for an outbreak on the part of South Carolina. No necessity for these reinforcements seemed to exist. I was assured by distinguished and upright gentlemen of South Carolina that no attack upon Major Anderson was intended, but that, on the contrary, it was the desire of the State authorities, as much as it was my own, to avoid the fatal consequences which must eventually follow a military collision.

And here I deem it proper to submit, for your information, copies of a communication dated December 28, 1860, addressed to me by R. W. Barnwell, J. H. Adams, and James L. Orr, "Commissioners" from South Carolina, with the accompanying documents, and copies of my answer thereto, dated December 31.

In further explanation of Major Anderson's removal from Fort Moultrie to Fort Sumter, it is proper to state that, after my answer to the South Carolina "Commissioners," the War Department received a letter from that gallant officer, dated December 27, 1860, the day after this movement, from which the following is an extract :

"I will add, as my opinion, that many things convinced me that the authorities of the State designed to proceed to a hostile act,"

Evidently referring to the orders, dated December 11, of the late Secretary of War.

"Under this impression, I could not hesitate that it was my

solemn duty to move my command from a fort which we could not probably have held longer than forty-eight or sixty hours to this one, where my power of resistance is increased to a very great degree."

It will be recollected that the concluding part of these orders was in the following terms :

"The smallness of your force will not permit you, perhaps, to occupy more than one of the three forts ; but an attack on, or attempt to take possession of either one of them, will be regarded as an act of hostility, and you may then put your command into either of them which you may deem most proper to increase its power of resistance. You are also authorized to take similar defensive steps whenever you have tangible evidence of a design to proceed to a hostile act."

It is said that serious apprehensions are, to some extent, entertained, in which I do not share, that the peace of this District may be disturbed before the 4th of March next. In any event, it will be my duty to preserve it, and this duty shall be performed.

In conclusion, it may be permitted to me to remark that I have often warned my countrymen of the dangers which now surround us. This may be the last time I shall refer to the subject officially. I feel that my duty has been faithfully, though it may be imperfectly, performed ; and whatever the result may be, I shall carry to my grave the consciousness that I at least meant well for my country.

JAMES BUCHANAN.

WASHINGTON CITY, *January 8, 1861.*

APPENDIX.

LETTER OF THE HON. JOSEPH HOLT,

Secretary of War in the latter months of President Buchanan's administration, and Judge-Advocate-General under President Lincoln's administration, in regard to the so-called "Cabinet Crisis,"

GARDEN CITY, LONG ISLAND, N. Y., }
17th March, 1884. }

MY DEAR SIR : I enclose you herewith a few lines cut from what purports to be advance sheets from Mr. Blaine's forthcoming book.

The statement reflecting upon President Buchanan I believe to be both *cruel and untruthful*. It is an ill-defined and intangible charge, which may be filled up according to the wishes or prejudices of the reader. It means, if anything, that Mr. Buchanan was about to prove false to his sworn duty, and all his past record, by acknowledging in some way the right of secession at the demand of the South Carolina "Commissioners," or that he entertained some idea of handing over the Federal property to that State, or that he proposed to order General Anderson back to the untenable fort he had just evacuated, and that he had expressed some such intentions in his draft of reply to the South Carolina Commissioners. Nothing less serious would warrant the severe language employed by Mr. Blaine, which I quote, "compromising to the honor of the Executive," "perilous to the integrity of the Union," "fatal concession."

Nearly twenty-five years had elapsed, after the period referred to, before any such charge was ever suggested against the wisdom and patriotism of President Buchanan. It first appeared about two years ago in the report of an "interviewer" published in a malignant Philadelphia newspaper—one that had ever persecuted Mr. Buchanan, living and dead. It is

now given more credibility and prominence by the writings of a distinguished public man, and if untrue, it should be promptly met and refuted by Mr. Buchanan's friends and all to whom his memory is dear. I have always understood from Mr. Buchanan and others that the only real difference on that occasion, now so highly colored by Mr. Blaine, between the President, Judge Black, Mr. Stanton, and yourself, was not at all a difference of vital or Constitutional principles, but simply a difference as to the *phraseology* most appropriate and least liable to misconstruction by the "Commissioners" and Secessionists, which should be used in the President's reply to their demand. And I have always understood that Mr. Buchanan frankly and promptly yielded his opinion as to the most appropriate language, and requested Judge Black to take the draft and modify it so as to best express the principles and policy that had been unanimously and deliberately adopted by the Administration.

You are now the only living man who knows the exact truth of this matter, having been an actor in it. It is very dear to us of Mr. Buchanan's family to have his name protected in this, which has the appearance of being a vulnerable point. I believe you to be too magnanimous to withhold from us, if we are right, your assurances that Mr. Blaine is mistaken in this statement.

This vague, but nevertheless grave charge, may go down into history as a blot on President Buchanan's memory, and crystallize into various dangerous shapes, if not now disproved. You alone can furnish us with the means of contradicting it in the most effectual and final manner.

With kind remembrances,

Yours faithfully,

J. BUCHANAN HENRY.

WASHINGTON, D. C., May 26, 1884.

J. Buchanan Henry, Esq.

DEAR SIR : I am in receipt of your letter calling my attention to the following extract from a forthcoming volume of political history by the Hon. James G. Blaine :

“ Judge Black’s change, however important to his own fame, would prove comparatively fruitless, unless he could influence Mr. Buchanan to break with the men who had been artfully using the power of his administration to destroy the Union. The opportunity and the test came promptly. The new “sovereign, free, and independent government of South Carolina” sent commissioners to Washington to negotiate for the surrender of the national forts and the transfer of the national property within her limits. *Mr. Buchanan prepared an answer to their request which was compromising to the honor of the Executive and perilous to the integrity of the Union.* Judge Black took a decided and irrevocable stand against the President’s position. He advised Mr. Buchanan that upon the basis of that fatal concession to the disunion leaders, he could not remain in his Cabinet. It was a sharp issue, but was soon adjusted. Mr. Buchanan gave way, and permitted Judge Black and his associates, Holt and Stanton, to frame a reply for the Administration.”

You desire my opinion particularly on the statement that “Mr. Buchanan prepared an answer to their request which was compromising to the honor of the Executive and perilous to the integrity of the Union.” These words must certainly seem strange and harsh to those who knew Mr. Buchanan well, and had Mr. Blaine been in possession of all the information bearing on the action thus arraigned he could not have expressed his estimate of it in terms so severe as those he has employed. Mr. Buchanan had so guarded his personal honor through a long life, that at its close there was found upon it neither stain nor trace of stain ; with equal solicitude, and, in my belief, with equal success, did he watch over the honor of the great office he held. Of all the illustrious men who had occupied that seat of power before him, none had been less capable than he of lowering its dignity or impairing its integrity. Equally incapable was he of saying or doing aught which, in his judgment, could prove in the remotest degree “perilous to the Union.” The letter alluded to, and which was prepared by the President’s own hand, no longer exists, and can therefore be spoken of only by way of general recollection. When it was read on the evening of the 29th of

December, dissatisfaction was evidenced by the loyal members of the Cabinet through suggestions conversationally made. Nothing occurred on the occasion which could be called a discussion, nor can I recall that the President manifested any dissent from the views thus made known to him. He listened, and then quietly and kindly—as was his habit—took what had been said under consideration. The objections thus arising did not go to any doctrinal conclusions reached by the President, but were rather structural and verbal in their character, contemplating the omission of certain passages, and seeking by amendment of the framework and phraseology of the paper—while announcing the President's views with frankness and commanding force—to enforce them by a distinctness of utterance which would render any mischievous misinterpretation of them by the Commissioners or others impossible. The acknowledged importance of the communication necessarily imposed the obligation of this caution and this anxiety to protect the President from all harmful implications as to the opinions actually held by him.

After this Cabinet meeting Judge Black formulated his objections to the President's letter in a "Memorandum," which has been preserved, and was given by him to the public, through a correspondent of the *Philadelphia Press*, in which journal it appeared on the 7th of August, 1881. It is scarcely possible to read this "Memorandum" without being impressed by the highly excited apprehensions under which it was obviously written, and by the apparent severity of its criticism. The judge did nothing by halves, and in the fervor of his loyalty to the Union, he commented not only on what had been evolved in the Cabinet, but much more, elaborating and intensifying his strictures by the vigor of speech for which he was so distinguished. On reading the following day the objections, as thus arrayed, to his draught of an answer to the Commissioners, the President unhesitatingly directed that an answer should be prepared in accordance with the changes desired, and this was accordingly done. From this recital it would seem that too much gravity has been assigned to this consultation of the President with his Cabinet, and to the modification of an official paper resulting from it. The

whole proceeding followed the usages of the Presidential office, and in availing himself of the counsels of his Cabinet the President sacrificed neither the independence of his judgment nor his dignity.

It has been stated that Judge Black said to the President, and to Secretary Toucey as well, that he could not remain in the Cabinet if the proposed answer to the Commissioners remained unchanged. His highly impulsive temperament, and the supreme solicitude under which we were acting, may have led him to say so much, but if so, it was unknown to me at the time. Certainly no such avowal was made to myself, nor did I make any such to him or others, and of this he has left record evidence. In a letter from him to Mr. Schell, under date of 6th of August, 1863, he said : " Neither Mr. Stanton nor Mr. Holt ever spoke to the President about resigning, upon any contingency whatever, before the incoming of the new Administration." Remembering now the absence of any manifestation of dissent on the part of the President, and the readiness with which he yielded to the changes proposed, there would seem to have been little ground or opportunity for so extreme a declaration as has been imputed to Judge Black. While unable at this late day to recall all the details of the answer to the Commissioners drafted by the President, my recollection is distinct that it contained nothing properly understood—that is, as the President himself understood it, and wished it to be understood by others—which could be held to be " compromising to the honor of the Executive and perilous to the integrity of the Union." The desire for its partial reconstruction did not spring from the slightest doubt or fear felt as to the profound earnestness of the President's loyalty ; for those by whom he was immediately surrounded, and upon whose ears the pulsations of his heart fell, knew him to be as devoted to the Union as were the brave men who afterwards shouldered their muskets in its defence. The object of the changes sought was simply to render the answer more effective in accomplishing an object which the President and the loyal members of his Cabinet had equally at heart, and for which they were laboring with equal zeal.

But a single sentence of the proposed answer has been pre-

served, and it is found in Judge Black's "Memorandum" in these words: "Coercing a State by force of arms to remain in the Confederacy, a power which I do not believe the Constitution has conferred on Congress." Now, there was nothing new in this opinion. It had been declared by the President in his annual message, and as we learn from Mr. Seward, it was afterwards "willingly accepted as true" by Mr. Lincoln himself. It meant that the general government could not rightfully, with its army and navy, make war upon a State, as it would against a foreign nation, for the purpose of obliging such State to continue in the Union. While strict constructionists of the Constitution readily deduced this dogma from that instrument and its history, it was practically little more than a barren abstraction, when considered in connection with the further belief held firmly by the President, to the effect that the general government could properly employ its whole civil and military power in coercing obedience to the Constitution and the laws made under it *on the part of the people of the States*. Such obedience by the people, being compelled or yielded, there would seem to be no more danger of a State leaving the Union than there is of a shadow forsaking the substance from which it is projected. Standing, however, as these words did, without the accompaniment of the supplementary and explanatory belief mentioned, they were liable from their generality to misconstruction, and to be seized upon—as indeed they had already been—and made the basis of a claim that, logically, the Administration must entertain, if not active sympathy with, at least a measure of toleration for secession, which, in point of fact, the President and his loyal counsellors abhorred; for, though euphemistically spoken of as only a political heresy, it was clearly but treason in disguise, and could bear only the fruits of death for the nation. It was thought advisable, therefore, that the words quoted should be omitted altogether from the answer to the Commissioners, which was done.

The assertion will scarcely be controverted that the President and his Cabinet should be held responsible, not for discussions among themselves in their council chamber, not for suggestions, verbal or written, made to each other in the course

of a confidential consultation upon their official duties, but that such responsibility must, in all fairness, rest solely on the conclusions finally reached and acted on by them. The conclusions arrived at in this case were fully set forth in the President's answer to the Commissioners, under date of the 31st of December, 1860. It has been published, and needs no justification at my hands. It speaks for itself, and will abide any scrutiny to which it may be subjected.

I may say, further, though not directly in response to your letter, that the reproaches heaped upon Mr. Buchanan during the closing months of his administration and afterwards, were due mainly to the conciliatory policy, or as he himself termed it, "a policy of defence, not aggression," which he felt it his duty to assume towards the South. This policy was honorable to him in every way, and its wisdom was fully illustrated by the events that followed. But there arose in those days patriots, fiery and blatant, who misunderstood and misrepresented him, stigmatizing his moderation as timidity, and claiming that the flash of gunpowder was the only light that should be shed on the vexed political questions of the hour. Perilous conjunctures in public affairs have not unfrequently been prolific in charlatan zealots of this class. Fabius was hooted at Rome, but Cannæ was his vindication. This policy was very far from being inspired by fear. It sprang from a noble hope—the result of some remaining trust in human nature—that the growing revolt, alarming as it was, would be suppressed before war had reddened its hands in the blood of our people. In one of his messages to Congress at that period, Mr. Buchanan said: "I am one of those who will never despair of the republic." And again he said: "If the political conflict were to end in civil war, it was my determined purpose not to commence it, nor even to furnish an excuse for it by an act of this Government." He did not realize then—few did—as all now do, that even at that moment the conspiracy had attained proportions beyond the control of moral suasion, and that the treason confronting the nation, with the cancer of slavery, of which it was the accursed progeny, could be extirpated only by the surgery of the sword. He might have acted far otherwise than he did. He might have blus-

tered and threatened, but this would have been incompatible with his personal character and the dignity of his exalted office, and would have excited only derision with the secessionists. He might have refused to correspond with the Commissioners from South Carolina, even as private citizens—and it was only as such that he did communicate with them—but he chose to hear before he struck. He might have ordered the guns of Sumter to open upon the fort, or forts being constructed around it for its ultimate destruction, or upon Moultrie, but in doing this he would have inaugurated war, which Congress alone is competent to do. He would have inaugurated war, too, at the very moment when the purse and sword of the nation's power were held by the hands of a Congress practically disloyal, and when our little army, utterly insignificant for such a conflict, was scattered from the centre to the circumference of the republic. Would this have been wise or statesman-like or patriotic? Such a step could have drawn after it only disaster and humiliation, and an imperishable condemnation of the rashness and folly which had prompted it. Such a step, too, would have given to the secessionists the very vantage-ground which the shot upon, instead of from Sumter afterwards gave to the nation—a vantage-ground that proved the fulcrum on which rested the lever of the moral and physical forces that filled the ranks of our armies and carried the country in triumph through the carnage of so many battle-fields.

This conciliatory policy, so patriotic and beneficent in its spirit, accomplished but little in the interests of peace in the South, for, unhappily, madness ruled the hour, and the voice of moderation could no more exorcise the traitorous passions which had been aroused than strains of music could quiet the waves of a raging sea. Still, in the presence of all the discouragements encountered, Mr. Buchanan was impelled to persist in his policy by a painful sense of his own helplessness. Though the Chief Executive of a great and brave people, he was absolutely fettered, so far as any effective endeavor for the preservation of the Union was concerned, by lamentably defective laws, conceived in a morbid jealousy of executive power and in a dread of the invasion of the “rights of the

States"—to use a hackneyed and much-abused term—and none knew this better than the secessionists themselves. Our political forefathers, though wise in their generation, do not appear to have been sufficiently acquainted with the capabilities of crime to foresee that possibly at some future day even the authorities of a State might be found in guilty complicity with a conspiracy against the national life, and hence no provision whatever was made to meet so humiliating an emergency in our history. The land was filled with heroic and true men, ready and eager to "march to the music of the Union," but the President had no power to call them to the field without an act of Congress authorizing him, and would have exposed himself to impeachment had he attempted to do so. There was money enough in the Treasury, but its keys were held in the clutch of a Congress virtually disloyal. In vain did he represent to Congress the imperilled condition of the country and the steady advance of the rebellion, calling upon it "as the only human tribunal, under Providence, possessing the power to declare war, or to authorize the employment of military force in all cases contemplated by the Constitution." But under all the appeals made to the honor, the sense of duty and patriotism of Congress, that body remained stolidly dumb and contemptuously indifferent, thus affording daily and hourly encouragement to the rebellion. Though charged under the Constitution with the duty of protecting the Union, that body, although the air at Washington was filled with the mutterings of a treason whose forces were being openly organized in the South, refused to give the President authority to call out the militia either to quell the rebellion or recapture the forts, arsenals, and other public property which had been seized by the insurgents. And when, in the performance of an imperative duty and exercise of a clear right, he had succeeded in collecting a small body of soldiers at Washington, for the purpose of resisting its capture by a rebel *coup de main*, then believed to be impending, and thus securing the peaceful inauguration of the incoming President, the House of Representatives, though perfectly aware of the object of the action taken, passed a resolution demanding to know by what authority and to what end this had been done—a resolution which,

though parliamentary in its language, was insolent and mocking in its spirit, and intended to be so, and seemed to treat as an offence against the House of Representatives the endeavor of the President to protect the National Capital from a rebel raid. When the collector at the port of Charleston resigned his office in the interests of the rebellion, and the President, wishing to continue the collection of the revenue there, nominated his successor, a Republican Senate refused to act upon the nomination, thus declining to co-operate with and support the Executive in his conscientious effort to execute the laws. Fearful must be the indictment to which that Congress will have to respond at the bar of history. Why this torpor and faithlessness? Was there unwillingness felt in any quarter for a Democratic Administration to have the glory of subduing the rebellion before it had filled the land with its crimes? Could there be an injustice more unworthy of a great and enlightened people than that which would condemn the President for seeking by forbearance and conciliation to stay the rebellion, when all physical power to resist its progress had been deliberately denied him?

Situated as he was, the President might have called on the governors and people of the loyal States for a volunteer force with which to recover the forts, arsenals, etc., of which the rebels had possessed themselves, and to suppress the insurrection, and this appeal might have been responded to. Such a proceeding, however, on his part, would have been utterly lawless, and the more so, as Congress—the depository under the Constitution, of all needful powers for the repression of treasonable assaults upon the republic—was in session at the time, sitting with folded arms in one end of the capital, and with ill-disguised sympathy with the rebellion in the other. Even, however, could so extreme and revolutionary a measure have succeeded, thoughtful men must now rejoice that it was not resorted to, since, had the rebellion been crushed in its earlier stages, it is clear enough that slavery—the source of all our woes—would have remained intact, and thus a wound, so long threatening our national existence, would have been healed over, leaving the poisoned shaft still rankling in its depths. But Mr. Buchanan was eminently a conscientious

man. He had an oath registered on high to execute the laws, not to violate them. He was in his nature infinitely above that vulgar herd of perjured usurpers and cut-throats who have crimsoned the annals of the ages by their crimes, but to whom, alas, the world has bowed its neck and knee, and obsequiously erected its monuments.

The true animus of Mr. Buchanan towards the rebellion cannot be judged aright without bearing in mind that, while his policy of forbearance and conciliation was, under the circumstances mentioned, maintained to the close of his administration, yet, when the clash of arms was heard, he yielded to none in the ardor of his wishes for the success of our flag, and in the inflexible determination with which he insisted the war for the Union should be prosecuted. In a published letter to the Hon. Horatio King, who had been a member of his Cabinet, he wrote under the date of September 18th, 1861, as follows :

“ I think I can perceive in the public mind a more fixed, resolute, and determined purpose than ever to prosecute the war to a successful termination, with all the men and means in our power. Enlistments are now proceeding much more rapidly than a few weeks ago, and I am truly glad of it. The time has passed for offering compromises and terms of peace to the seceded States. We well know that under existing circumstances they would accept of nothing less than a recognition of their independence, which it is impossible we should grant. There is a time for all things under the sun ; but surely this is not the moment for paralyzing the arm of the National Administration by a suicidal conflict among ourselves, but for bold, energetic, and decided action.”

Mr. Buchanan, unhappily, was not spared long enough to witness his own complete vindication, which must surely come, and, indeed, in part, has come already. The time is at hand when others will have to bear the sins and shortcomings of which it has been so cruelly sought to make him the scape-goat. “ Carrying”—to use his own touching words—as he did, “ to the grave the consciousness of having meant well for his country,” I rejoice to believe that he was cheered by a confident anticipation of the final triumph of his reputation over all the aspersions that had assailed it. Still, he must have

laid down his harassed and faithful life with a stinging sense of the wrong he had suffered at the hands of those whom he had served so well, and it is sad, indeed, to realize that for this no atonement to him can now be made. Yet no history written, however sincerely or unconsciously, under the influence of an estimate of his administration, born of and filtered to us through the fierce passions of the war, can long harm his memory. As the fevered pulse of that period has calmed, that estimate has steadily declined in vitality, and is rapidly losing its hold upon the public mind. Injustice cannot live always, and it is in the providence of God that the truth, however deeply buried, must sooner or later have a resurrection. The historian of the future, seated above the wrangle of partisan strife and the shadows of still lingering calumnies, will, amid the sunlight of a passionless impartiality, pronounce a judgment that must assure to this illustrious statesman and patriot an unsullied fame, and this judgment, I doubt not, coming generations will unhesitatingly accept.

Very sincerely yours,

J. HOLT.

LETTER FROM HON. JEREMIAH S. BLACK,

Attorney-General and Secretary of State under President Buchanan's administration, in regard to a biography of the latter.

SOMERSET, June, 1861.

MY DEAR SIR : I have thought carefully over the matter of which we spoke at Wheatland when I was there—namely, the proposition of a true and fair historical account of your public life, and especially that part of it which you spent in the great office of President. I think you owe it to your friends and to your country to give them a full and clear vindication of your conduct and character. If this be not done, you will continue to be slandered for half a century to come. In the mean time nothing is easier than a perfect defence of every important measure which you ever adopted or carried out—nothing plainer than the task of putting the responsibility where it properly belongs for every misfortune which the country has fallen into. . . . It should be a compact narrative of what occurred in Congress, in the Executive Departments, in the country at large ; readable, attractive, and interesting to all ; comprehensive in its scope, accurate in its details, vigorous enough to be convincing, and yet impartial enough to prevent the authority of it from being impugned.

“Though deep yet clear, though gentle yet not dull,
Strong without rage, without o'erflowing full.”

If such a thing could be produced, no matter when, it would be the standard authority for everything that concerns your times, and particularly for what concerns yourself. It would be a work which this generation would appreciate, and which even in future times “the world would not willingly let die.”

* * * * *

What could be more useful than a faithful analysis of the factions by which the country has been torn asunder—a true

description of those base combinations of demagogues who fought for the spoils of the Government while the Government itself was perishing. And is there any man who would not be excited more or less by a picture—if well drawn—of an honest Chief Magistrate struggling against the perils of that terrific time, with a wild, fierce throng of slanderers assailing him in front, and hanging on his flank and rear to defeat every movement he made for the preservation of the Union ?

* * * * *

Ever your friend,

J. S. BLACK.

LETTER FROM THE HON. HORATIO KING,
POSTMASTER-GENERAL UNDER PRESIDENT BUCHANAN'S AD-
MINISTRATION.

(*From the Washington "Post."*)

It was expected, or, if not expected, at least to be hoped, that Messrs. Hay and Nicolay would have so written or compiled their history of Abraham Lincoln as to have made it an authority for all classes of people. This expectation was chilled by their very unfair criticisms of Mr. Douglass; by their almost coarse and thoroughly unjust allusions to General James Shields, and has been completely destroyed by their treatment of Mr. Buchanan in later instalments of their work.

We had already written a correction of some of their alleged facts and imagined admissions concerning Mr. Buchanan's course at the breaking out of the rebellion, when the following communication from ex-Postmaster-General Horatio King reached us. We accordingly turn these unfair historians over to Mr. King, who has more time to deal with them than ourselves and a much more intimate acquaintance with all of the facts:

To the Editor of the "Post":

I have not infrequently had occasion, since the death of President Buchanan, to call public attention to many unjust and cruel partisan attacks, which from time to time have been made upon him in regard to his official conduct touching secession and the rebellion; but I have never seen anything more certain to excite the deep indignation, not only of his friends, but of every fair-minded man, than what has appeared from month to month in a work entitled "Abraham Lincoln: A History," in the *Century Magazine*.

When it was announced that the private secretaries to President Lincoln were to write his life, the hope, not to say ex-

pectation, was entertained that they would give us an interesting personal biography of that great and good man, free from all unreasonable prejudice or partisan bias. Such a book would receive a hearty welcome to every household in the land.

It was not, nor is it now sensible or necessary, to go into a rehash of all the old controversies—stale from endless repetition—about “Abolition,” “Kansas and Nebraska,” “Coercion,” “Fort Sumter,” and numberless other things which, for the past quarter of a century, have had their full share of attention, with ample illustration and explanation from all sides, sufficient to be set to rest forever—or, at least, until in some far-off period an impartial history of the war, its antecedents and results, shall be written.

But these “historians” seem to think differently, and to take special pleasure in undertaking to traduce and belittle President Buchanan in every way in their power.

* * * * *

It would be folly to offer any renewed refutations of the many charges reiterated against President Buchanan and his administration by these gentlemen. There is not one of them which has not been made hundreds of times before, and as often fully met and disproved, or, at any rate, satisfactorily answered.

Nor is it a recently discovered fact that leading secessionists, while professing friendship for Mr. Buchanan and the Administration—some of them holding high positions under, and confidential relations with, him—were secretly plotting the destruction of the Government, and seeking, by duplicity, chicanery, misrepresentation, and falsehood, to embarrass and compromise him. This, to a greater or less extent, was known at the time. However, some of them held the secret of their own treachery until exposure came at a later day. But I am not aware that even when party spirit has run the highest any enemy of President Buchanan has ever gone so far as the present compilers have done in parading, for the purpose of traducing him, the treasonable doings of men who turned their backs on the Government and Constitution they had sworn to support and went into the rebellion.

After what we have seen we need not be surprised at any abuse of President Buchanan, no matter how outrageous, in forthcoming instalments of this extraordinary "History"—but in the name of common decency we may be allowed to hope that the height of effrontery has been reached by introducing, as these *veracious* compilers have done, the story of General Thomas L. Clingman, that Secretary Jacob Thompson told him, about the middle of December, 1860, that he had been appointed a commissioner by the State of Mississippi to go down to North Carolina, and, with President Buchanan's approval, to get that State to secede. In a letter to Judge Black, written in September, 1877, when this story first came out, which letter was immediately published, Mr. Thompson gave the story a point-blank denial, and branded it as an "invention," a "fiction," and as "mere sounding brass." [See the Lancaster, Pa., *Intelligencer* of October 1st, 1877, a letter of Hon. George Ticknor Curtis, of May 12th, 1883, in the New York *Sun*, etc.]

· Begging to commend this communication to the attention of the editor of the *Century Magazine*, I leave the reader to make his own comments.

HORATIO KING.

WASHINGTON, November 7, 1887.

(From the Philadelphia "Times.")

WHEATLAND, September 21, 1861.

MY DEAR SIR : . . . I have had a hard time of it during my administration ; but, upon a careful review of all my conduct, I should not change it in a single important measure if this were now in my power. When the official documents and the facts come to be presented to the public, I entertain no apprehension as to what will be their verdict. On the one side I had been violently opposed by the Republicans from the beginning, and on the other side the leading secessionists were estranged from me from the date of my message on the 3d of December, and soon after, when I returned the insolent letter of the South Carolina Commissioners to them unanswered, all intercourse, political and social, between them and

myself ceased. I was, on the next day, or a day or two after, violently attacked in the Senate by Jefferson Davis and his followers, and the letter which I had returned was submitted by him to that body and published in the *Congressional Globe*. I pursued my own steady course from the beginning. The Charleston authorities were distinctly notified over and over again, that if they attacked Fort Sumter I should consider this attack as the commencement of a civil war. I need scarcely say that I agree with you in approving the active prosecution of the war by the Government, and I have never held any other language since the Confederates commenced it by the attack on Fort Sumter. It would probably have commenced early in January had the Senate confirmed my nomination of a collector for the port of Charleston. . . .

I remain, very respectfully, your friend,

JAMES BUCHANAN.

(*From the San Francisco "Alta," September 23d.*)

THE *Alta* has been recently put in possession of private letters of the late President James Buchanan to personal friends upon some subjects that have a present interest for the whole country, bearing upon our foreign policy and our commercial development, and to them we will refer at another time. They vitally interest the Pacific Coast and this city, and will be read here and elsewhere as if they were written to-day. His public course in the last days of his administration was unquestionably dictated by a desire to avert the disaster of war, if that were possible, under the Crittenden Compromise or any kindred measure. A keen analysis of the affairs of that distant time proves that herein he did not greatly differ from Mr. Lincoln, who for some time undoubtedly disbelieved that actual war was imminent.

What Mr. Buchanan privately thought, the real sentiment of his heart, and his keen foresight are shown, however, by his personal communication with valued friends on the other side, and the testimony is of such value that they now, when it serves only the good purpose of correcting the misconceptions of his countrymen, assent to its first publication. That

publication we make as a current corrective of the mad charges of furious partisans, who seek for political advantage to conceal, by clamor, the efforts made by another President, for the cleansing of politics and the bringing of duty and decency to the front. This letter shows how mistaken often is the popular estimate of the motives of our public men, and that it may do the most good we give it circulation :

WHEATLAND, NEAR LANCASTER, May 4, 1861.

MY DEAR MADAM : I have received your favor of the 26th ult., after having been many days on the way, and most sincerely and deeply sympathize with you. Still, I believe your imagination has magnified the difficulties of your situation, and you will not be exposed to the dangers you apprehend. You have had a checkered life, and I still trust your last days may be peaceful and happy.

The assault upon Fort Sumter has made us unanimous throughout the North. I often predicted that such would be the effect of so mad and reckless an enterprise. The spirit of the North has been thoroughly aroused, and they will go ahead until secession shall be suppressed and the Union restored.

I am truly sorry that your son has joined the Confederate Army. California was his State, and even upon the principles of false honor, which have actuated so many, he might therefore have remained at West Point.

We live here very much in retirement. All social visiting is at an end. Men, women, and children are all engaged in warlike pursuits. Miss Lane seems to be quite contented, and has changed her mode of life with remarkable facility. She desires me to convey her love to you and say she has received your letter and will answer it soon.

Why have you changed your purpose of returning to California? It appears to me that this was and would be your natural course. You do not like to pass through Virginia, and I do not wonder at this.

I shall ever feel the deepest interest in your prosperity and happiness. We may never meet again, but I shall ever remember with heartfelt pleasure the many happy hours we

have passed together in other and better days. With sentiments of sincere regard I remain, always your friend,

JAMES BUCHANAN.

MRS. M. E. GWIN.

The other correspondence, to which we have referred, is of older date, between Mr. Buchanan and Senator Gwin, before the former was President or had been considered for that office, and relates to an isthmian canal to connect the Atlantic and Pacific oceans. We will shortly refer to it at length, because of its value as proving the broad views taken by men like Buchanan, Gwin, and Robert J. Walker.

(From the Philadelphia "Times.")

The Ex-President's biographer reviews the question of coercing the rebellious States.—The course Jackson or "a man like Jackson" would have taken—The fault that of Congress, not of President Buchanan.

RICHFIELD SPRINGS, August 20, 1883.

To the Editor of the "Times" :

The publication of the life of President* Buchanan was followed within a week by an amount of criticism such as I do not remember to have seen bestowed on any similar book in the same space of time. I was much gratified by the extent of the interest that appears to be taken in the work and its subject. For what was complimentary to the author I feel grateful ; to what imputed literary fault or shortcoming, I trust I have been suitably attentive ; for what assailed me in a bad spirit no one will expect me to care. But it is not on account of myself that I now wish to advert to this mass of criticism. As respects the final estimate to be put upon the public character and conduct of Mr. Buchanan, there has been a good deal of candid, just, and fair writing, and some of the reviews have been marked by great ability, thoughtfulness and penetration. Others have been simply and obviously the tactics of party organs, in which vituperation and reiterated slander have been the staple. There is, however, one topic

to be extracted out of the friendly and unfriendly discussion of Mr. Buchanan's course in 1860-61, to which I wish to ask the attention of your readers.

THE QUESTION OF COERCION.

This relates to the distinction between coercing a State and coercing the individual inhabitants of a State—a distinction on which President Buchanan based one great branch of the policy of his administration, in preparing to encounter the secession movement. This is not a merely theoretical question, for, although—so far as we can now see—there is very little probability that another attempt to dismember this Federal Republic upon the principle of secession as it was asserted in 1860-61 will ever be made, yet it is and must remain an important practical question in what way an unconstitutional step on the part of a State is to be encountered. Hence it is that the distinction between coercing a State by an application of force to keep within its constitutional orbit in all its public and corporate acts as a State, and the enforcement of the supremacy of the Federal Constitution and the laws enacted in the exercise of its granted powers by acting on the persons of individual inhabitants of the State, is just as important now, and must remain just as important hereafter, as it was when the great revolt of 1860-61 had to be met. The question whether this was a distinction without a difference is therefore not only of consequence in reference to what was done or maintained by Mr. Buchanan or any other statesman in the beginning of the secession movement or in the progress of the Civil War, but it is also of consequence in the future. Let us see, then, whether the distinction is a solid one.

This may be determined by applying the test of a hypothetical case. Let it be supposed, then, that at the time when the Legislature of Massachusetts had it in contemplation to pass the laws which became known as "liberty bills," and which put actual obstructions in the way of the extradition of fugitives from service, the President of the United States had stationed an army on Boston Common and had directed the commanding general to inform the Legislature that if they did not desist from that act of nullification he would shell the

State House or would disperse them at the point of the bayonet. There can be no question that Massachusetts did pass and did keep on her statute-book for a long time laws that were directly in conflict with an important provision of the Federal Constitution and subversive of its supremacy. If the President of the United States can properly apply coercion to one State to prevent her from adopting an ordinance of secession so-called, he can, with equal propriety, apply coercion to another State to prevent her from nullifying or attempting to nullify a particular provision of the Federal Constitution or the laws of the United States passed in pursuance of it. The only difference between the two cases is that in the one there is an attempt to arrest the operation of the whole Constitution within the limits of the State, and in the other there is an attempt to arrest the operation of one only of its provisions. In both cases the right of the Federal Government to preserve its own existence and to maintain the supremacy of its own constitution is, as a principle, alike involved. The sole question is, by what means is this to be done? Is it to be done by applying force to the State to prevent her from perpetrating the unconstitutional act on paper, or is it to be done by compelling her citizens to obey the Constitution and laws of the United States, notwithstanding the void act which has been put on the records of the State? The fact that an ordinance of so-called secession undertakes to withdraw the State from the Union *in toto*, while the single unconstitutional law withdraws it from the Union only in part, makes a difference not in kind, but in degree. The right and the duty of the Federal Government to preserve its own existence and to maintain the supremacy of the Federal Constitution is the same in both cases.

COERCION APPLIED TO LIBERTY BILLS.

What would have been said, then, if President Pierce or President Fillmore had threatened to apply coercion to any of the States that passed the laws that were called "liberty bills" for the purpose of preventing their enactment? Would not the whole country have cried out, "You, Mr. President, have no authority to control the legislative action of a State.

You have only to wait the enactment of the laws which you say are unconstitutional, subject them to the proper judicial test, and then execute upon individuals the process of the Federal tribunals by whatever force may be requisite to put down the obstructions." This would have been the answer of all sound constitutional jurists. What is the answer in the case of a threatened secession of a State from the Union *in toto*? It is this: The ordinance of secession will be utterly void. Let it be adopted if persuasion and reason will not prevent the people of the State from doing a void and rash act. Then proceed to execute the laws of the United States within that State, just as you would have executed them if no such ordinance had been adopted. If the Federal Executive and Judicial officers resign their places, appoint others. If the existing laws of the United States do not put within your control the force necessary to execute process upon individuals, call upon Congress to provide you with that force, and when you have obtained it put down all obstructions that you find in your way. This is not to make war upon the State. It is the exercise of a power that is conferred on the Federal Government by the Constitution; a power that has been exercised over and over again, and may have to be exercised hereafter. When the scale and theatre of the resistance become so extensive that in the exercise of the power to remove obstructions the laws of war have to be brought into operation, they come into operation not as they do in prosecuting a war against a foreign nation, but as rules which are necessary to restrain the ferocity of a contest between a government and its citizens while it lasts. They do not dissolve the allegiance of the citizen. They do not convert him into a foreign enemy. When the contest is over and he is subdued he is liable to all the penalties of treason, and it is a mere question of policy whether those penalties shall be enforced. The autonomy, the constitutional existence, the Federal relations of his State remain as they were before the contest began.

THE POWER OF THE CONSTITUTION TO ENFORCE UNION.

But it has been said again and again that the secession of the Southern States made a case against which the Constitu-

tion itself had made no provision ; a case for which the ordinary means of enforcing the laws were inadequate ; that the Government was bound, in the absence of any available constitutional means, to fall back upon the powers implied in its right of existence, and that if a man like Jackson had been in Buchanan's place he would have resorted to coercion in some form as a necessary measure of governmental self-preservation. Here is precisely where I differ from all the recent critics who have questioned Buchanan's course, even from some of those who have considerably and fairly conceded his patriotic intent. In the first place, I ask whether we are to have it understood hereafter that when a State undertakes to violate a provision of the Federal Constitution there is no constitutional remedy, but that resort must be had to the extra constitutional method, or to a method implied in the vague and boundless right of self-preservation ? I do not understand the reasoning, or the assumption, which begins with the position that the Constitution has within itself no means, or no adequate means, for encountering such a case as the secession of a State. If the Constitution is so defective, it is just as defective to-day as it ever was. I deny the defect. The provision which the Constitution has made for its own supremacy through its judicial power, and through the President's oath of office, which binds him to the execution of the laws, excludes a resort to any other means of self-preservation, because these are the very means which the Constitution provided for the very purpose. They have the only adequacy which the Constitution ever contemplated. They are, moreover, in fact, adequate. They are direct, efficacious, operating just where they ought to operate—that is, upon the conduct and persons of individuals. They leave no room for excursions into the boundless realms of a supposed NECESSITY. We know by the record that these means were chosen in the formation of the Constitution for the express purpose of excluding a resort to coercion or force of any kind applied to a State to keep it in its constitutional orbit. When I hear or read of the coercion which Buchanan ought to have applied I am obliged to ask, Coercion for what purpose ? Why, of course, to prevent a State, by force, from adopting an ordi-

nance of secession. Then by the same token a President may now or hereafter say to a State : " If you attempt to enact a law that will violate one of the provisions of the Federal Constitution, I will disperse your Legislature by my bayonets. I am the Commander-in-Chief. This Government has a right to exist and to forestall and prevent anything that threatens its existence." Where shall we be if this doctrine is to prevail ? It is perfectly plain that if Buchanan had resorted to any other means than those which the Constitution had provided for we should have had this constitutional Government converted into a military despotism more than twenty years ago.

JACKSON AND BUCHANAN.

Then, in regard to Jackson, or to " a man like Jackson ;" if what a man did in an emergency that is supposed to bear some resemblance to a subsequent and much greater emergency, be any criterion of what he would have done in the later case, I undertake to show that General Jackson, had he been President in 1860, would, in all human probability, have done just what Buchanan did. I am perfectly aware that " Old Hickory" in the personal provocation given to him by the insolence of the South Carolina Legislature used very strong language and uttered in conversation some threats of seizing the persons of the Nullifiers. But he was surrounded by a body of constitutional advisers and political friends who would never have consented to any such step. Edward Livingston, Roger B. Taney, Levi Woodbury, Benjamin F. Butler, and Mahlon Dickerson, not to mention hosts of other Democrats, never would have allowed even Jackson to act otherwise than in a strictly constitutional manner in dealing with nullification. Moreover, with all his characteristic propensity to strong measures, he had an extraordinary power of self-control, and could curb his own passions when it was necessary that he should do so. He was, too, a far better constitutional lawyer than he has ever had the credit of being ; for although he could not, perhaps, formulate a constitutional argument on paper as well as some other men, he had great constitutional sagacity and penetration, which enabled him to

discern the boundaries of Federal authority. What he would have done in 1860 is to be measured not by his violent talk, but by his official acts in 1833 ; and these show unmistakably that both he and his advisers acted on the same principle which governed the course of Buchanan ; for, instead of undertaking to coerce the State of South Carolina, by acting on her convention or her Legislature, his administration proceeded to put in motion the very means contemplated by the Constitution for enforcing the supremacy of the Federal laws. The State Legislature, after the ordinance had pronounced the tariff unconstitutional and directed the Legislature to arrest its operation within the limits of the State, passed a law for a replevin by the sheriff of the goods that might be seized by the marshal, and provided the sheriff with a military force to maintain his possession. To encounter and frustrate this nullification of the Federal statute, what did General Jackson do ? Did he tell the Legislature that if they attempted to pass such a law he would disperse them ? On the contrary, he asked Congress to pass the well-known " Force Bill," and he asked Webster to aid in framing and enacting it. It was enacted at once ; and it provided for the transfer of any actions of replevin from the State Courts into the Federal Courts, where the State laws could be declared to be violations of the Federal Constitution. To enforce the decisions of the Federal Courts all the necessary *posse comitatus* was given to the marshal, and it was for the regular and proper collection of the duties, and for no other purpose, that the President sent a small military and naval force into the port of Charleston. If, therefore, there was any parallel between the case of nullification and the case of secession, Jackson did in principle what Buchanan endeavored to get Congress to enable him to do. He had to collect the revenue in the port of Charleston. The collector had resigned. Buchanan nominated a suitable successor and the Senate would not confirm him. He had to execute the laws of the United States through the Federal tribunals, and the Federal judge and the marshal had resigned. To re-establish the Federal machinery in South Carolina, obstructions had to be removed. To remove them required means of compelling individuals to obey

the laws of the United States. The "Force Bill" of 1833 had expired by its own limitation. There was no existing law under which the President could call for volunteers or could call out the militia to suppress insurrections against the United States. The President asked for such new laws, and he personally attended to the framing of the bills. That Congress never enacted one of them, nor was any provision for such purposes made until the civil war had been for some time raging. President Buchanan, from October, 1860, to March 4th, 1861, had but five companies of regular troops within his reach, and by the middle of January, 1861, South Carolina was armed to the teeth.

THE REPUBLICAN CONGRESS AND BUCHANAN.

This brings me, therefore, to the consideration of what has been said by some of the recent critics concerning the reason why the Republican leaders in Congress were unwilling to trust Buchanan with the executive means for which he asked. I have read with great care all the most important of the recent suggestions, and the fairest and most considerate of them amounts only to this, that the Republicans distrusted a President who, although he asked for the necessary military preparations, was at the same time urging measures of conciliation. One of the most impartial of the critics has said that, while the inference drawn by the Republicans that Buchanan was not to be trusted was a natural one, yet it was not a justifiable one, and he admits emphatically that I have shown it was not. My own view of the temper and spirit of the Republican leaders in Congress at that time has always been that it partook largely of a temper and spirit that animated other prominent men who were in other important public positions, and I think it may be well illustrated by something that happened within my personal knowledge. Every one who remembers what was taking place remembers what a gallant struggle was made by the Union men in Georgia to prevent the secession of that State. Her secession ordinance was not passed until the 19th of January, 1861. At that time I was a citizen of Massachusetts. The Legislature of Massachusetts was to

assemble on the first Monday in January, and the newly-elected Governor, the Hon. John A. Andrew, was then to be inaugurated. There stood on the statute-book of the State at that time a law which was an act of nullification of the Constitution and law of the United States on the subject of the extradition of fugitives from service, as palpably as the law of South Carolina had thirty years before been a nullification of the tariff. The most eminent jurists of Massachusetts held this law of the State to be unconstitutional, and it was certainly unnecessary. In the latter part of December, just after South Carolina had seceded, I received from a very active Union man in Georgia, of great eminence and influence, an earnest letter, portraying the struggle that was then pending in that State, and asking if something could not be done to bring about a repeal of these so-called "Liberty Laws." The writer of the letter said that this concession on the part of Massachusetts would greatly strengthen the hands of the Union party in Georgia, and would go far to enable them to win a victory.

Let it be observed that this had nothing to do with slavery in the Territories. If the concession should be made it would not touch a single dogma of the Chicago platform on which Mr. Lincoln had been elected. My first impulse was to apply to Governor Banks, who was going out of office, but, on reflection, I thought that an outgoing Governor would not be likely to take the responsibility of making any recommendation on the subject, and I did not know Governor Banks personally as well as I knew the gentleman who was to be his successor. I wrote a note to Governor Andrew and he called to see me. After reading to him the letter of my Georgia correspondent, whose name and patriotic exertions for the Union were well known to him, I said: "Mr. Andrew, this is a matter that rises above all party considerations. The concession that is asked for on the part of our State is one that all parties can unite in for the purpose of aiding the Union men in Georgia in their contest with the secessionists. We are only asked to take off from our statute-book a law which the ablest men among us, of both parties, have long regarded as unconstitutional. Will you not recommend this

step in your inaugural message?" "No," said the Governor; "I will not make such a concession." "But, my dear sir," I replied, "you see the situation: South Carolina has already seceded; if Georgia secedes, other Gulf States will follow, and sooner or later there will be a civil war. You do not, I know, wish to see a civil war. Why will you not advise our Legislature to make this very small concession?" "Sir," said Mr. Andrew, "if it pleases the Lord to strike those people down there with judicial blindness, I am not going out of my way to help them. If they choose to secede, let them, and if there is to be a civil war, let it come." I did not report his language to my friend in Georgia, but I was sorrowfully obliged to inform him that nothing could be done. Now, Governor Andrew was an excellent and kind-hearted as well as an able man, but he had wrought himself into the conviction that the North should make no concessions to the South. His state of mind was very much the same with that of the Northern Senators in Congress who would not make the small concession of the "Crittenden Compromise." Undoubtedly it was most unfortunate that they were confronted in the Senate by Jefferson Davis and the other secessionists, who kept up, as long as they remained there, the ceaseless din of the right of secession, who were continually saying that it must be peaceably allowed, and that any kind of coercion would be war. This aggravated the Northern Senators, most certainly, and strengthened their unwillingness to make any concession. But I remember well how I longed to see some Northern man rise in the Senate and, speaking to both sections, as Webster would have spoken, scatter the doctrine of constitutional secession to the winds, and then tell the North that in dealing with the passions of great communities in such a crisis and before the clash of arms was begun, a government never loses anything of dignity or strength when it takes the olive branch in one hand while it holds the sword in the other. To borrow a striking phrase of one of the recent critics, it was a forcible illustration of the "irony of fortune" that Buchanan had no one of commanding influence in the Senate to second him, as I have no doubt Webster would have done if he had not been sleeping the

everlasting sleep on the shore of Marshfield. Party spirit or anything else may lead men to say that Buchanan wished to have secession enough to force the Republican Party back from its recent triumph ; but it will ever remain a decisive answer to this charge that he pointed out to that Congress the only possible means by which secession could be encountered within the limits of the Constitution, and it is no disparagement to him whatever that he did not go out of the Constitution in search of means which would have inevitably converted our Government into a power without law, chart, or compass. I think I have read that General Grant would have been the kind of man for the emergency. Alas ! those who think so are little aware what they impute to the character of General Grant when they suggest that he would have found a way to encounter secession which the Constitution had not furnished to him. He might have found a way to make a military despotism, but if he had been President in 1860 he could never have restored the Constitution of the United States after he had conquered the South if he had done what these critics say Buchanan should have done.

THE POOR EXCUSE OF DISTRUSTING BUCHANAN.

It is a poor excuse for the Northern members of that Congress to say that they distrusted Buchanan. The argument proves a great deal too much. Did they distrust Lincoln, also ? The Presidency never dies. The Executive power is held to-day by one man and to-morrow at twelve o'clock it passes into the hands of another man. It is the same power, comprehending the same functions, the same duties, the same relations to the Legislative department, whether the man who holds it is named Buchanan or Lincoln, and whether he is called Democrat or Republican. It was the Executive power that Mr. Buchanan begged and implored that Congress to strengthen ; not *his* power, not James Buchanan's power, but the power of the President of the United States. The bills for this purpose which Mr. Buchanan personally revised were well and suitably drawn. They covered the whole field, supplying amply the means which the Constitution contem-

plated for preserving the life and vigor of the Government. Congress had an abundance of time to enact them into laws, for the last of the Gulf States seceded on the 5th of February, 1861, and when their Senators and Representatives were gone from the Capitol the Republicans could, before the 4th of March, have passed without obstruction the very bills that Buchanan urged upon them and which he stood publicly pledged to approve. If they feared that Buchanan would not execute them, why did they not, before the term of their authority would expire, put them on the statute-book to be executed by their own President, who was to be inaugurated on the day when Buchanan was to go out of office? They suffered that Congress to go out of existence without taking a single step to strengthen the Executive power in any direction, either upon the theory of coercing States or coercing individuals. What was the consequence? When Mr. Lincoln came into office he had no authority of law to call out the militia or to call for volunteers in order to suppress insurrections against the United States or to collect the revenue outside of custom-houses, nor had he the necessary means to reconstruct the Federal judiciary in the seceding or the seceded States. When, after more than a month of informal negotiation between the Lincoln Administration and the Confederate Commissioners and other persons about the evacuation of Fort Sumter, it was determined to re-enforce that garrison, and reinforcements were sent and Beauregard was ordered by Davis to bombard the fort, and it was done—when the Civil War was thus begun—Mr. Lincoln's call for seventy-five thousand men was made, and had to be made, without any legal authority. When the first troops from the North poured into Washington, after forcing their way through Maryland, there was not the slightest preparation by the Government to receive them; no billeting, no subsistence, no forage, no anything; all was at first confusion worse confounded; private individuals and extemporized local committees had to do the whole. Whose fault was this? Certainly it was not the fault of President Lincoln or his Secretary of War. It was the fault of that Congress, which had expired on the 4th of March without having made any provision either to coerce the seceded States

back into the Union, or to execute the laws of the United States upon individuals, or to recapture the public property in the seceded States, or to do anything that would save the border States from being swept into the control of the Montgomery Confederacy.

BUCHANAN AND THE ARMY.

I will not again answer the reiterated slanders which have accused the Buchanan Administration of having placed and kept the regular military and naval forces of the Government where they could be of no avail in the coming emergency. I have accounted for the position of the army and for the position of every important vessel of the navy in the month of December, 1860, and in the three following months, and if critics will not read, or having read will not fairly admit the truth, their and my readers will know how to estimate their criticisms. It is as plain as the noonday sun that without new legislation the Government of the United States was, in the then situation of things, practically powerless to encounter secession, whether you call secession revolution or call it rebellion, or call it anything else. For the needed legislation there was ample time before the 4th of March, and that legislation never came until after the Civil War was raging and the Confederate Government was seated at Richmond, with the whole of great and historic Virginia at its absolute command, along with all vigorous North Carolina, and with nearly half the people of Missouri, Tennessee, and Kentucky in active sympathy and co-operation with all its doings.

THE GOVERNMENT AND REVOLUTION.

But there is one other view which has been respectfully urged by more than one of the critics in the most considerate terms, and it shall have a respectful answer. To formulate it as I understand what has been written and published, and as it has reached me privately from sources entitled to my most sincere respect, it may be stated thus: Within the limits of the Constitution, Mr. Buchanan may have had no adequate means to encounter secession without new legislation. But

secession was, in fact, revolution ; and as every government has, by the great law of self-preservation, the right to encounter revolution, what was needed was the exercise by the President of powers such as any government would resort to in encountering a revolution which threatens its very existence and aims to terminate it. As the natural right of revolution is bounded by no law, so, it is argued, the correlative right of a government to prevent the success of a revolution is not to be measured by positive law or established precedent. Mr. Buchanan failed to perceive and act upon this correlative right of the Government to prevent a revolution from becoming successful, although the purity and patriotism of his motives must be conceded.

The first answer to this criticism is that the ordinances of secession and the public proceedings of the States which seceded before the 4th of March, 1861, based the alleged right of secession not upon any right of revolution, but upon a certain construction of the Constitution of the United States, as a right impliedly reserved to the States by the nature and effect of that instrument. It was the Constitution itself, therefore, to which the Government of the United States was to look for the means of encountering such an asserted right of a State to absolve its people from the duty of obeying the laws of the United States, and those means were to execute the laws of the United States upon individuals in spite of the secession ordinances.

But, in the next place, if secession was practically and in effect an attempt at revolution, the case for the Government of the United States is not altered by the name that is given to the attempt. Nullification by a State of a single act of Congress is practically a revolution *pro tanto*. But to base it on the inherent right of revolution against intolerable oppression, or to call it an attempt to make a revolution, does not enlarge the sphere or enhance the means in and by which a constitutional government like that of the United States is to act in a case of such resistance to its authority. In other words, it is not correct to say that, because the natural right to make a revolution is boundless in its scope and justifiable by its success, a constitutional government holds a correlative

right to resort to any and all means to prevent that success. If the government is one that has in its own fundamental law express provision for the assertion of its authority, and legislative, judicial, and executive means of defending that authority against all resistance by combinations of men or public bodies, whether they are nullifications, secessions, insurrections, rebellions, attempted revolutions, or what not ; whether they extend to a total overthrow of the legitimate authority or are only aimed at one exercise of that authority, the whole field is covered ; and the government, if it intends to preserve its constitutional authority and the great law of its being, and not to make itself a party to a revolution in its turn, must reject all distinction between nullifications, secessions, revolutions, rebellions, and insurrections, and must act by encountering them all in the method provided for it by the great law that has given it the right to exist and to defend its existence. Mr. Buchanan saw this with perfect clearness of vision from the first. But he was not the only man of that period who saw it. Mr. Seward, for example, saw it and acted upon it for a short time, although he soon went to the extreme of exercising revolutionary, arbitrary, and extra constitutional powers, upon the idea of the correlative right of a government to measure its own powers by the unlimited powers of those who were said to be trying to accomplish a revolution. Mr. Seward's letter of April 10th, 1861, to Mr. Adams, is worthy of the attention of the critics of Mr. Buchanan's course. It is the glory of our Constitution that it has within itself all the necessary means for encountering any emergency, and if our Civil War and its result have not taught this lesson, all the blood was shed and all the treasure expended in vain.

Finally, you cannot, by calling "secession" "revolution," or treating it as an attempt at revolution, change in one iota the relative functions and duties of the President and the Congress. The President can no more encounter an attempted revolution without being supplied by Congress with the necessary means, especially when Congress is in session, than he can proceed on his own sole authority in ordinary and peaceful times to do anything without law. If there is a threatened revolution the President can make himself a dic-

tator, if he will, and the people will permit him, and so he and the people can destroy the Government in the process of preserving it. But the President happens to have taken a solemn oath to his God to preserve, protect, and defend the Constitution of the United States ; and this binds him by all the force that can rest upon the conscience of man to preserve, protect, and defend the authority and function of every department of the Government in its appropriate sphere, whether he has to encounter a revolution, or to enforce a civil execution for five hundred dollars, or to sign the death warrant of a convicted criminal, or to issue a patent for a tract of land.

WAS REBELLION INEVITABLE ?

There is one other of the recent criticisms of Mr. Buchanan's course on which I will say a few words. The Civil War, it is said, was bound to come. The temper of the North and the South toward each other had become such that it was nothing short of an entire lack of prescience and wisdom in Mr. Buchanan that he did not see the uselessness of all efforts at conciliation. The war had to come ; slavery had to be destroyed by force ; the irrepressible conflict had culminated ; it could not be arrested. It is not probable that this will be the final judgment of history. But suppose it is. Make the case as strong as the facts will warrant, and then add your belief that civil war had become inevitable. No aspect which you can give to the case, no belief in the inevitable conflict that you can hold, will vary in the least degree the political, the patriotic, the public, or the moral duty of a statesman situated as Mr. Buchanan was.

The fact, if it is a fact, that the two sections had become so embittered against each other that the voice of moderating wisdom was not likely to be heard, could not render it the less a duty for Buchanan to utter that voice in all earnestness and sincerity. There can be no exasperation of nation against nation, no excitement of section against section in the same country, no conflict of human passions or interests, in which the beatitude pronounced for the peace-makers can ever be lost. We may refine as we please about the course of God's

providence ; we may say that war is permitted for inscrutable purposes, or that it works out of slaughter and desolation and brave men's lives and widows' tears and the orphan's destitution great and beneficent ends. Human anger, self-interest, popular violence, ambition, greed of power, greed of gain, love of country, love of honor, philanthropy, real or pretended—a thousand vices and ten thousand virtues—may all be wrought into the multitudinous means by which the Almighty governs the world. But notwithstanding all this, the statesman who does not labor to avert the calamity of civil war by every means within his reach that may be consistent with the dictates of an enlightened conscience, fails to fulfil a duty that is just as divinely appointed as the duty of the soldier can be said to be after the clash of arms has begun and the battle is raging. This was true when Buchanan was subjected to his great trial, and it will remain true of all other men in like situations to the end of time. Is it said that he strove to save his party and to save slavery, because he tried to save the Union by compromise and conciliation ? Well, what is this but to judge him by an utterly uncharitable judgment ? Do you imagine that posterity is going to judge him in this way ? We can so judge him to-day, if we will ; in the near to-morrow of another age he will be judged by another tribunal, and even now it may behoove us to take care how we permit the rising generation to be misled concerning the man who propounded and asserted the constitutional doctrine that saved us of the North from having a conquered Ireland or a subjugated Poland on our hands.

THE AUTHOR'S LIFETIME VIEWS OF COERCION.

Let me conclude, Mr. Editor, by saying that the distinction between coercing a State and enforcing the laws of the United States upon individuals is no new one with me, nor has it been adopted for the purpose of defending President Buchanan ; nor did I derive it from him, much as I respect and honor him for the clear and forcible manner in which he stated it. It was in substance set forth in an oration which I delivered on the 4th of July, 1862, before the municipal authorities of

the city of Boston, and which was published in pamphlet by the city government at the time, and was twice printed at length in the *New York Journal of Commerce*. If any one cares anything about the consistency of my opinions or attaches any importance to them, he can compare what I said in 1862 with what I have said in the recent "Life of Buchanan;" or he can go back to an earlier period and consult Chapter XII. of Volume II. of my history of the Constitution, first published in 1854; or he can come down to a period since the Civil War and consult a published lecture which I delivered in New York in 1875, long before I ever knew Mr. Buchanan's executors or a single member of his family. In fact, from the years of my earliest manhood to this day I never had but one set of opinions upon the mode in which the Government of the United States is to maintain its rightful supremacy, and those opinions have been expressed by me quite as freely and frequently as could become a citizen who never held or sought an official position.

Very respectfully, your obedient servant,

GEORGE TICKNOR CURTIS.

MR. SEWARD UPON COERCION OF STATES.

THE following extracts are taken from an official letter addressed by Mr. Seward, as Secretary of State under President Lincoln, to Mr. C. F. Adams, who had just gone abroad as United States Minister to England. The letter bears date April 10th, 1861 :

“ You will hardly be asked by responsible statesmen abroad, Why has not the new administration already suppressed the revolution? Thirty-five days are a short period in which to repress, chiefly by moral means, a movement which is so active while disclosing itself throughout an empire. . . . He (President Lincoln) believes that the citizens of those States, as well as the citizens of the other States, are too intelligent, considerate, and wise to follow the leaders to that destructive end—anarchy. For these reasons he would not be disposed to reject a cardinal dogma of theirs—namely, that the Federal Government could not reduce the seceding States to obedience by conquest, even although he were disposed to question that proposition. But, in fact, the President willingly accepts it as true. Only an imperial and despotic government could subjugate thoroughly disaffected and insurrectionary members of the State. This federal, republican country of ours is, of all forms of government, the very one which is most unfitted for such a labor. Happily, however, this is only an imaginary defect. The system has within itself adequate, peaceful, conservative, and recuperative forces. Firmness on the part of the Government in maintaining and preserving the public institutions and property, and in executing the laws where authority can be exercised without waging war, combined with such measures of justice, moderation, and forbearance as will disarm reasoning opposition, will be sufficient to secure the public safety until returning reflection, concurring with the fearful experience of social

evils, the inevitable fruits of faction, shall bring the recusant members cheerfully into the family, which, after all, must prove their best and happiest, as it undeniably is their most natural, home." He then goes on to show that the calling of a national convention, by authority of Congress, will remove all real obstacles to a reunion by revising the Constitution, and he adds: "Keeping that remedy steadily in view, the President, on the one hand, will not suffer the federal authority to fall into abeyance, nor will he, on the other hand, aggravate existing evils * *by attempts at coercion which must assume the form of direct war against any of the revolutionary States.*"

It is impossible for human ingenuity to draw a sensible distinction between the policy of President Lincoln, as laid down by Mr. Seward just before the attack on Fort Sumter, and the policy adopted and steadily pursued by President Buchanan; and it is to be hoped that the world will hereafter hear no more reproaches of President Buchanan because he denied the authority of the Federal Government to make aggressive war upon a State to compel it to remain in the Union, or because he proposed conciliatory measures looking to an amendment of the Constitution.—*Curtis, "Life of James Buchanan,"* vol. ii., p. 351.

Copies of this volume may be obtained from J. Buchanan Henry, 46 Exchange Place, Room 25, New York City.

* Italics the compiler's.

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